

HCBPATI1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

S4 15 Cr. 867 RMB

5 MEHMET HAKAN ATILLA,

6 Defendant.

7 -----x

8
9 December 11, 2017
10 9:25 a.m.

11
12 Before:

13 HON. RICHARD M. BERMAN,

14 District Judge
15 and a jury

16
17 APPEARANCES

18 JOON H. KIM,
19 United States Attorney for the
20 Southern District of New York
21 MICHAEL DENNIS LOCKARD,
22 SIDHARDHA KAMARAJU,
23 DAVID WILLIAM DENTON, JR.,
24 DEAN CONSTANTINE SOVOLOS,
25 Assistant United States Attorneys

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(APPEARANCES Continued)

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Attorneys for defendant Atilla
BY: VICTOR J. ROCCO, Esq.
THOMAS ELLIOTT THORNHILL, Esq.
- and -
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LAW OFFICES OF JOSHUA L. DRATEL, P.C.
BY: JOSHUA LEWIS DRATEL, Esq.
Of counsel

Also Present:
JENNIFER McREYNOLDS, Special Agent FBI
MICHAEL CHANG-FRIEDEN, Paralegal Specialist USAO
MS. ASIYE KAY, Turkish Interpreter
MS. SEYHAN SIRTALAN, Turkish Interpreter

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1 (Trial resumed. In open court; jury not present)

2 THE COURT: So we have almost all the jurors, missing
3 one or two, but this is a preliminary legal matter that I
4 wanted to discuss with you. It's a response to the letters
5 back and forth, dated December 10, first from the government
6 objecting to some of the cross-examination by Mr. Rocco and
7 then Mr. Rocco's letter in response.

8 So the ruling is as follows. As I say, I have
9 reviewed the government and defense letters dated December 10
10 regarding Mr. Cohen's cross-examination, and while I still need
11 to review these letters against the transcripts of the
12 examination, which I've started doing but have not finished, I
13 do have some preliminary responses and concerns with the
14 cross-examination.

15 No. 1, the Court, as you know, has the principal
16 responsibility of determining and instructing the jury with
17 respect to the applicable law. The jury has been so advised,
18 as you also know, preliminarily and the Court's views of the
19 sanctions laws applicable to this case is clearly stated in two
20 rulings, one dated October 17, 2017, with respect to
21 Mr. Zarrab's motion to dismiss, and the other dated
22 November 16, 2017, issued in response to Mr. Atilla's motion to
23 dismiss.

24 Point two, the jury takes the law as provided by the
25 Court and is not the arbiter of any counsel's disagreement with

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1 the Court as to either, in this case, the law of conspiracy
2 and/or the laws relating to sanctions against Iran or any other
3 legal matter in that regard.

4 No. 3, my preliminary reaction is that the cross of
5 Mr. Cohen exceeded the Court's, I think it was, December 6th,
6 2017, ruling as to the scope of cross of Mr. Cohen and also
7 potentially of Mr. Szubin, and I think it may tend to confuse
8 the jury as to the jury's role in this matter and, also, as to
9 the applicable law that applies in this case. You will recall
10 I so advised defense counsel of this concern at the sidebar on
11 December 8 and am reviewing the transcripts in this regard.

12 No. 4, defense counsel is hereby placed on notice that
13 while it will not do so now, the Court will likely sustain
14 objections to the cross and give an instruction to the jury as
15 to applicable legal principles along the lines of the
16 instruction proposed by the government in its December 10
17 letter if the defense proceeds along its current path with
18 respect to Mr. Cohen or Mr. Szubin or other witnesses that the
19 government may call.

20 No. 5, I would like to review also the exhibit, I
21 think it's 2010. It was a defense exhibit, and if you have a
22 copy, I'd like you to hand it up. As I recall, it's a detailed
23 letter or e-mail sent by Mr. Atilla to the U.S. government
24 regarding sanctions. And I would also like to review any
25 written information or materials that the government may have

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1 been referring to in the government's letter, I think also of
2 December 6th. I may be off a day or two. And that is to say,
3 the government's letter with responsive information it may have
4 received regarding the sanctions law or laws.

5 And, finally, in response to an issue raised by the
6 defense, there will be no continuance of this trial, as
7 suggested by defense counsel or requested, perhaps, is a better
8 way to describe it.

9 So that's it on that issue. I'll be back to you after
10 I've finished reviewing the transcript in this regard. So if
11 you have exhibit, I think is it, 2010? Oh, and the government,
12 we'd like your response, to know whether there are any such
13 written materials in connection with that letter.

14 MR. LOCKARD: I can respond to that question now.
15 There are -- the letter describes conversations and not written
16 materials.

17 THE COURT: Okay. And have you, in discovery, turned
18 over -- this was an issue that's been discussed before -- any
19 other government testimony or any other materials pertinent to
20 the concerns expressed by the defense?

21 MR. LOCKARD: So what we received from the Department
22 of Treasury and what we produced in discovery were documents
23 and communications relating to communications with Halkbank or
24 with Mr. Atilla by the Treasury Department during the time
25 period of the charged offense, and so that's what we received

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1 and that's what we produced, including the prior --

2 THE COURT: And what?

3 MR. LOCKARD: Including any prior statements of the
4 witnesses in e-mails about their discussions with the bank.

5 THE COURT: All right. And --

6 MR. ROCCO: Your --

7 THE COURT: Well, go ahead.

8 MR. ROCCO: Your Honor, I was just going to say there
9 was a request that we went directly to Treasury for, and we're
10 waiting for a response to that and promised that they would
11 have something to us today.

12 THE COURT: Okay. You mentioned something like that
13 in the materials.

14 MR. ROCCO: We did, your Honor.

15 THE COURT: So the next question is, who's the next
16 witness, and if that person, I had some understanding, might
17 have difficulty getting to court today, if we had somebody else
18 we could start with, even if it's somewhat out of turn?

19 MR. LOCKARD: So our travel problems have not
20 materialized.

21 THE COURT: Okay.

22 MR. LOCKARD: So we are ready to proceed with
23 Mr. Joshua Kirschenbaum, who is our witness today. We will
24 expect Mr. Cohen will return. He was scheduled to be here
25 right after the lunch break. We haven't yet determined whether

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1 he's going to have travel issues, but we're prepared to proceed
2 continuously whether he gets here or not.

3 THE COURT: Okay. I'll advise you when we have our
4 full complement of jurors.

5 So the exhibit may be Exhibit 201 instead of 2010.
6 Did I misidentify it?

7 MR. ROCCO: It's apparently not 201 either; so I'm
8 going to take a couple of minutes to look for it.

9 THE COURT: Okay. Great.

10 (Pause)

11 MR. ROCCO: Your Honor, I think we've identified the
12 document. It's Government Exhibit 7011; so if you like....

13 THE COURT: Yes, I'll take a look. I'll know it when
14 I see it. I don't know where I got the number.

15 (Pause)

16 So we have our jury and if we could call the next
17 witness.

18 (Jury present)

19 THE COURT: Good morning, everybody. Nice to see you.
20 So please be seated, and we will call the next government
21 witness.

22 MR. DENTON: Your Honor, the United States calls
23 Joshua Kirschenbaum.

24 THE COURT: And by the way, the witness, Mr. Cohen,
25 who was here on Friday, is going to come back sometime during

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1 the week for some additional questioning. It wasn't finished,
2 and he had to go back to DC. So he's going to be back today or
3 tomorrow. I'm not sure.

4 THE DEPUTY CLERK: Sir, if you could step up to the
5 stand, please remain standing for a moment, and then raise your
6 right hand.

7 Do you solemnly swear that the testimony that you
8 shall give this Court and jury in this issue now on trial shall
9 be the truth, the whole truth and nothing but the truth so help
10 you God?

11 THE WITNESS: I do.

12 THE DEPUTY CLERK: Could you please state your full
13 name for the record.

14 THE WITNESS: Joshua Avi Kirschenbaum.

15 THE DEPUTY CLERK: Could you spell your last name,
16 please.

17 THE WITNESS: Kirschenbaum, K-i-r-s-c-h-e-n-b-a-u-m.

18 THE DEPUTY CLERK: Thank you, sir. You may be seated.
19 Feel free to pull up the chair and adjust the microphone.

20 MR. DENTON: May I proceed, your Honor?

21 THE COURT: Yes.

22 JOSHUA KIRSCHENBAUM,

23 called as a witness by the Government,

24 having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

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Kirschenbaum - Direct

1 BY MR. DENTON:

2 Q. Morning, Mr. Kirschenbaum.

3 A. Morning.

4 Q. Where do you work?

5 A. I work at the Treasury Department in an office called
6 FinCEN, the Financial Crimes Enforcement Network.

7 Q. What is the Financial Crimes Enforcement Network?

8 A. It is a money laundering regulator, and also, it functions
9 as the Financial Intelligence Unit for the United States,
10 meaning it collects financial reporting from financial
11 institutions such as banks, including suspicious activity
12 reports.

13 Q. What is your position at FinCEN?

14 A. I'm the acting director of an office at FinCEN called the
15 Office of Special Measures. That office is located within the
16 enforcement division of FinCEN. My office, although its an
17 enforcement division, does not do domestic money laundering
18 enforcement. It conducts section 311 investigations, which
19 refers to a provision of the Patriot Act related to targeting
20 foreign financial institutions for money laundering activity.

21 Q. When did you start work at FinCEN?

22 A. I began to work in FinCEN in July of 2015.

23 Q. Where did you work before then?

24 A. Prior to that, I worked at a different office in Treasury
25 called OFAC, which stands for the Office of Foreign Assets

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1 Control.

2 Q. And how long did you work there?

3 A. Approximately four years, beginning around June of 2011.

4 Q. And what was your position at OFAC?

5 A. My most recent position at OFAC, prior to my departure to
6 FinCEN, was a policy advisor in the policy and regulatory
7 affairs division.

8 Q. And had you had other jobs at OFAC before that?

9 A. Yes.

10 Q. What were those jobs?

11 A. My one job prior to working as a policy advisor was as a
12 sanctions investigator in the Office of Global Targeting at
13 OFAC.

14 Q. As part of your work as a policy advisor at OFAC, did you
15 ever have occasion to communicate with foreign financial
16 institutions about U.S. sanctions laws?

17 A. Yes.

18 Q. And generally speaking, what form did those communications
19 take?

20 A. They could be by telephone, by e-mail or writing, such as
21 letter, or they could also be in-person meetings, either with
22 bank personnel in Washington or on trips to foreign countries
23 at their offices overseas.

24 Q. Generally speaking, what was the purpose of communicating
25 directly with foreign financial institutions about U.S.

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1 sanctions laws?

2 A. Generally, when we communicate with foreign financial
3 institutions about U.S. sanctions laws it would be to explain
4 what the rules were, and to advise them as to proper compliance
5 with those sanctions rules.

6 Q. When you talk about rules, are you talking about sanctions
7 regulations?

8 A. Sanctions laws, executive orders and regulations, yes.

9 Q. Are you familiar with a Turkish bank named Halkbank?

10 A. Yes.

11 Q. So I'd like to direct your attention to October 29th, 2013.
12 Did you participate in any communications with Halkbank on that
13 day?

14 A. I believe I participated in a phone call with bank
15 personnel, the phone call from Washington with bank personnel
16 that were located in Turkey.

17 Q. Were you the only person from OFAC involved in that call?

18 A. No.

19 Q. Who else was involved that you can remember?

20 A. I believe that the call was led by the director of OFAC at
21 the time, who was named Adam Szubin, and I participated as a
22 note-taker primarily, and there would have been several others
23 on the call, though I can't remember an exhaustive list.

24 MR. DENTON: Your Honor, may I approach?

25 THE COURT: Sure.

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1 Q. Showing you what's been marked for identification as
2 Government Exhibit 7021, just take a look at that for a moment,
3 please.

4 (Pause)

5 Mr. Kirschenbaum, do you recognize Government
6 Exhibit 7021?

7 A. Yes.

8 Q. What is it?

9 A. This is a memo or what I call a read-out, meaning a
10 summary, of the October 29th phone call between Adam Szubin and
11 the deputy general manager of Halkbank, Mehmet Atilla.

12 THE COURT: Sorry, and who?

13 A. This is my summary memo or read-out of the phone call
14 between OFAC Director Szubin and Deputy General Manager Atilla
15 of Halkbank.

16 Q. You just described this as your summary memo. Did you
17 prepare Government Exhibit 7021?

18 A. Yes.

19 Q. Was it a regular part of OFAC's work to memorialize
20 meetings or calls in a summary or read-out?

21 A. Yes.

22 Q. So let's talk for a moment about the process of that
23 regular practice. Who actually drafts the text of a read-out
24 of a call or a meeting?

25 A. In a situation such as this, where you have the most senior

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1 person at the agency leading the call, it would usually be a
2 subordinate, such as myself, or the policy advisor or someone
3 at what we would call the working level, who would take notes
4 and then draft the memo summarizing the relevant information.

5 Q. Is it someone who actually participated in the meeting or
6 call?

7 A. Yes, you would need to have participated.

8 Q. So is it fair to say that a read-out or summary is prepared
9 by someone with personal knowledge of what it describes?

10 A. Yes.

11 Q. How long after a meeting or call is a read-out typically
12 prepared?

13 A. Typically, as quickly as possible so that memory is fresh.

14 Q. And in this case, how long after your call with the
15 defendant was this read-out prepared?

16 A. This is dated the next day, and that's in keeping with my
17 memory that it was written very quickly after.

18 Q. Is it important that the contents of a meeting or call
19 summary be accurate?

20 A. Yes.

21 Q. Why is that?

22 A. For several reasons; so that we can inform more senior
23 decision makers and make available to them the necessary
24 information to make policy decisions, and also, in case the
25 information ever needs to be relied upon in any kind of action

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1 the agency may take, we need to have accurate information in
2 the read-out.

3 Q. So does Treasury maintain copies of these read-outs for use
4 in its future business?

5 A. Yes. We retain memos like this in our -- we, Treasury
6 Department personnel, would typically retain the memo in the
7 file after its centered or disseminated.

8 Q. Generally speaking, what was the topic of this October 29th
9 call with Atilla?

10 A. The topic of this phone call was several issues related to
11 Iran sanctions and primarily the status of Iranian oil funds,
12 funds derived from the proceeds of sale of Iranian oil to
13 Turkey held in accounts at Halkbank.

14 Q. And does this read-out reflect statements that the
15 defendant made about those subjects?

16 A. Yes.

17 MR. DENTON: Your Honor, the government offers
18 Government Exhibit 7021.

19 THE COURT: I'll allow it.

20 MR. ROCCO: No objection, your Honor.

21 (Government's Exhibit 7021 received in evidence)

22 MR. DENTON: If we could publish that starting at page
23 2.

24 BY MR. DENTON:

25 Q. So starting with the first paragraph below the title, can

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1 you read, Mr. Kirschenbaum, what the summary states about what
2 the topics were discussed on this call?

3 A. Do you want me to read that verbatim or --

4 Q. Yes, please.

5 A. "OFAC director Adam Szubin" --

6 THE COURT: Slowly.

7 A. "OFAC Director, Adam Szubin, spoke on October 29th, 2013,
8 with Mehmet Hakan Atilla, the deputy general manager of
9 Halkbank, about Turkish gold sales to Iran, the purchase of
10 Turkish securities by Iran, and Halk's ongoing facilitation of
11 sales of humanitarian goods to Iran."

12 Q. Did all three of those subjects implicate U.S. sanctions
13 laws, orders or regulations?

14 MR. ROCCO: Objection, your Honor.

15 THE COURT: Overruled. If you know.

16 A. Yes, they did.

17 Q. So let's go through those as they're described in the
18 read-out. Can you read for us the portion of the read-out
19 describing the discussion with respect to gold sales?

20 A. "Szubin told Atilla that Turkish customs data showed a
21 significant decline in Turkish gold sales to Iran, but there
22 did seem to be some continued export of gold in July and August
23 of this year. Atilla confirmed that Halk ceased the
24 facilitation of gold sales to Iran prior to July 1st, 2013. In
25 light of IFCA, Szubin asked Atilla to help explain who may be

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1 involved in facilitating that trade. Atilla said that Halk was
2 not involved at all, and he speculated that any continued sale
3 of gold to Iran probably did not go through financial
4 institutions, but was instead cash-based and used jewelry
5 merchants."

6 Q. Now, in the middle of that paragraph there's a reference to
7 "in light of IFCA." What is your understanding of what that
8 meant?

9 A. What that meant -- the implication of the text here is that
10 beginning July 1st, 2013, under the statute known as IFCA, it
11 would be sanctionable for a Turkish bank, such as Halk, to
12 facilitate transactions for the sale of gold to the country of
13 Iran beginning from that date, July 1st.

14 Q. And what was the defendant's response to that question?

15 A. The defendant answered Szubin and told him that Halk was
16 not involved in any trade involving gold between Turkey and
17 Iran and that his assessment was that no Turkish financial
18 institutions --

19 THE COURT: Could you speak more slowly.

20 A. He replied to Szubin that Halkbank was not involved in any
21 gold trade between Turkey and Iran, and he assessed what he
22 believed is that no Turkish financial institution would be
23 involved in transactions for the exportation of gold from
24 Turkey to Iran at that point in time.

25 Q. So let's talk next about the second area that was discussed

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1 in this call with respect to securities. Can you just read
2 what that discussion was for us?

3 A. "Szubin also confirmed two communications that OFAC sent to
4 Halk (July 16th and August 27th, 2013) explaining that the
5 purchase of Turkish securities does not fall under the
6 bilateral trade restriction under TRA" -- or Threat Reduction
7 Act -- "section 504. Atilla confirmed that understanding."

8 Q. This seems to refer to an ongoing discussion. Were you
9 part of a discussion with respect to Turkish securities related
10 to Halkbank?

11 A. Yes.

12 Q. Can you give us a little context of what was this
13 discussion was about?

14 A. The conversations about questions that Halkbank had posed
15 to OFAC as to whether Iranian oil funds held in accounts at
16 Halk could be used by Iranians controlling those accounts to
17 make investments in securities, such as stocks or bonds, that
18 were listed in Turkey, whether that would be subject to
19 sanctions or whether that would be allowed under sanctions.

20 Q. During this call, was there any similar discussion about
21 whether gold sales were permissible?

22 A. The defendant already knew that gold sales were not
23 permissible, which is why the reference in the above paragraph
24 is that they had stopped gold sales prior to July 1st because
25 they knew they were not permitted under sanctions at that time.

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1 Q. So then let's talk about the third topic, which appears to
2 be a little more of what was discussed here. So let's start at
3 the top. What does the first paragraph say about the
4 discussion with respect to humanitarian trade?

5 A. The first paragraph reads: "Atilla informed Szubin that on
6 October 14, 2014, Halk notified third-country exporters of food
7 and medicine to Iran that the bank would cease facilitation of
8 such transactions. Halk already implemented this change for
9 food exports and will stop financing third-country medicine
10 exports at the end of 2013. Non-Turkish companies with a
11 physical presence in" Iran, (an affiliate or subsidiary)" --

12 THE COURT: With a physical presence?

13 A. Excuse me, sorry. "...with a physical presence in Turkey."
14 I misread that. Thank you. "With a physical presence in
15 Turkey (an affiliate or subsidiary) and an account at Halk
16 would continue to be able to use Halk for such sales, even if
17 the goods did not physically transit Turkey."

18 Q. Again, could you give us a little context here? What is
19 this discussion talking about?

20 A. This discussion refers to business that Halk facilitated
21 and of which OFAC was aware, business involving those
22 aforementioned funds derived from sales of Iranian oil to Iran,
23 and the business was -- business in which Halk would facilitate
24 the use of those funds for companies outside of Turkey, such as
25 in Europe and the Middle East or Asia, to sell food or medicine

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1 or medical devices or other similar goods, which were allowed
2 under sanctions. Halk would facilitate those third-country
3 companies' sales using funds at Halkbank.

4 The exports would go from the third country, such as
5 European countries, to Iran and the Iranian importers would use
6 those funds derived from oil sales held at Halk, to pay the
7 third-country exporters, and Halk would facilitate the debiting
8 of those accounts to pay the exporters. That was allowed under
9 sanctions.

10 Q. Is that kind of trade sometimes referred to as transit
11 trade?

12 A. Could you give me a little more context on the usage of
13 transit trade? Specifically related to humanitarian?

14 Q. Yes. Are you familiar with the use of that expression in
15 that context?

16 A. I think it could be referred to as transit trade if it
17 transited Turkey.

18 Q. So who was Halkbank going to allow to continue doing this
19 sort of humanitarian trade?

20 A. So what they communicated in this phone call was that Halk
21 would change, or was in the process of changing its business
22 practice at this time and that they had already stopped
23 allowing the accounts with Iranian oil money to be used to pay
24 non-Turkish exporters of food.

25 And, similarly, that by December 2013, they would stop

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1 facilitating the use of the accounts for non-Turkish exporters
2 of medicine to export goods to Iran, and that beginning then at
3 the start of 2014, the only companies that could be paid with
4 those funds at Halkbank would be either companies based in
5 Turkey or companies with a physical -- with an entity located
6 in Turkey, such as an affiliate or subsidiary in Turkey, that
7 those companies could continue to use the money, but
8 non-Turkish companies would no longer be allowed to participate
9 in this business.

10 Q. So going down to the next paragraph, did the defendant give
11 an explanation for why Halkbank was making those decisions?

12 A. Yes.

13 Q. So if you could read what he told you here in that call?

14 A. The second paragraph reads: "Halk took this decision after
15 the Turkish ministry of economy expressed concerns at the
16 decrease in Iranian funds held at Halk, which the Turkish
17 government believes should be prioritized for Turkish exports.
18 Atilla explained the dwindling of CBI" -- or Central Bank of
19 Iran -- "reserves as a result of several factors."

20 Q. And if we could just continue down to the end of the page
21 with some of the discussion of some of those factors?

22 A. The second next paragraph reads, redacted: "Has reduced
23 purchases of Iranian oil, while Halk's prominence as a center
24 of third-country humanitarian trade with Iran has grown over
25 time, thus, draining funds from the CBI account at Halk."

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1 Continue?

2 Q. Please.

3 A. The next paragraph reads, redacted: "Atilla told Szubin
4 that Halk assesses that current annualized trade levels between
5 Turkey and Iran are \$7 billion in imports from Iran (down from
6 \$9 billion last year) and \$3 billion in exports to Iran (down
7 from \$9 billion), leaving a \$4 billion annual balance in Iran's
8 favor." And the final sentence is redacted.

9 Q. What does that last phrase mean, "leaving a \$4 billion
10 annual balance in Iran's favor"?

11 A. What Atilla was telling Szubin is that -- and this refers
12 to the state of affairs in approximately October 2013 -- is
13 that the current trade relationship between Iran and Turkey was
14 such that Iran exported \$4 billion in goods -- \$4 billion more
15 in goods, it should be, than Turkey imported from Iran that was
16 primarily derived from oil and gas sales.

17 So that on an annualized basis, given the current
18 trade relationship, each year would generate a surplus in the
19 Turkish banks, such as Halk, of approximately \$4 billion. So
20 each year there should be about \$4 billion building up in those
21 accounts from the bilateral trade balance between the two
22 countries.

23 Q. If we could then go on to the next page, Mr. Chang-Frieden.

24 So let's start with the top paragraph, the
25 continuation of that discussion about imports and exports?

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1 A. The next paragraph reads: "Atilla estimated that Iran's
2 imports of food (probably including agricultural commodities)
3 and medicine (probably including medical devices) total \$10
4 billion and \$5 billion annually. While Halk did not state the
5 value of the third-country humanitarian trade it facilitated
6 for Iran last year, the Turkish government's expressed concern
7 -- "the Turkish government has expressed concern that
8 non-Turkish trade would overwhelm Turkish trade and eat up the"
9 balance "in the CBI," or Central Bank of Iran --

10 THE COURT: Eat up the?

11 A. Excuse me, "eat up the surplus." Correction. "Eat up the
12 surplus in the CBI account."

13 (Continued on next page)
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1 Q. Mr. Kirschenbaum, do you have any understanding of why
2 eating up the surplus in the CBI account would be a source of
3 concern?

4 A. My understanding of what Atilla meant by that was that the
5 Turkish government wanted to privilege these funds for exports
6 by Turkish companies to Iran, which would help the Turkish
7 economy. And that because Halk had an existing business line
8 facilitating humanitarian trade, such as food and medicine from
9 non-Turkish businesses, the concern was that as the balance or
10 surplus dwindled over time, given the large amount of
11 third-country trade, all of the money in the accounts that --
12 at that point a \$4 billion annualized surplus, that could all
13 be eaten up by European, Asian, other companies selling things
14 like food and medicine, and Turkish exporters would not -- Iran
15 would not be able to pay Turkish exporters. The implication
16 being that Iran would choose -- without Turkish government
17 intervention, Iran would choose to privilege the third-country
18 food and medicine imports over Turkish goods. Leading to
19 Turkish exporters missing out or having reduced business
20 because of Iranian business decisions.

21 Q. So then let's look at the final paragraph of this document
22 and talk about what the solution was. If you could read that
23 for us.

24 A. "Halk proposed two options to increase liquidity in the CBI
25 account and allow it to continue to facilitate third-country

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1 humanitarian exports to Iran. The first would be to transfer
2 locked-up oil sale surpluses in [redacted] to a special purpose
3 account at Halk, which would only be used for humanitarian
4 trade."

5 Q. If I can stop you there for a second. What does the
6 reference to "locked-up oil sales surpluses" refer to?

7 A. That phrase, "locked-up oil surpluses," refers to funds
8 derived from the sale of Iranian oil to some other country, not
9 Turkey, that were held in a bank located in that other third
10 country, that under the sanctions were likewise restricted for
11 certain purposes under U.S. sanctions, such as bilateral trade
12 or exports from the third country to Iran, as well as other
13 humanitarian exemptions. So they were not under sanctions
14 allowed to be transferred to an account at Halk.

15 Q. Why would a transfer between a third country and Halkbank
16 in Turkey be the subject of discussion with OFAC?

17 A. Without -- without some sort of dispensation from OFAC, any
18 bank involved in a transfer -- at this time, any bank involved
19 in a transfer of funds derived from Iranian oil sales in a
20 given country to another country could be subject to sanctions
21 imposed by OFAC, including both the third-country bank
22 remitting the funds and a bank such as, in this scenario,
23 Halkbank in Turkey that were to receive such funds.

24 Q. I'm sorry I interrupted. If you can read the rest of the
25 paragraph, please.

HCB3ATI2

Kirschenbaum - Cross

1 A. I'll ask for help. Did I stop at "humanitarian trade"?

2 Q. I think so.

3 A. Okay. See, I'm not very good at reading e-mails.

4 The paragraph continues: "The second," the second
5 option, "the second would be to allow Halk to facilitate a
6 portion of third-country purchases of Iranian oil, which would
7 allow a larger surplus to accumulate. Szubin told Atilla that
8 he would take back both proposals to review and would reach out
9 to Halk in the near future to continue the discussion."

10 Q. Did that second option implicate some of the same concerns
11 that you were just describing?

12 A. Yes. Under sanctions rules at that time, a foreign
13 financial institution, such as Halk in Turkey, that facilitated
14 the sale of Iranian oil to buyers located in a different
15 country, a third country, not Turkey in this scenario, would
16 also be subject to sanctions under the rules at the time.
17 Again, without some sort of dispensation from OFAC, which is
18 what they sought.

19 MR. DENTON: If I could just have a moment, your
20 Honor. No further question, your Honor.

21 THE COURT: Thank you. Counsel, for
22 cross-examination.

23 MR. ROCCO: If I may, your Honor.

24 CROSS-EXAMINATION

25 BY MR. ROCCO:

HCB3ATI2

Kirschenbaum - Cross

1 Q. Good morning, Mr. Kirschenbaum. My name is Vic Rocco and I
2 represent Mr. Atilla. Have you ever met Mr. Atilla?

3 A. No.

4 Q. Have you ever spoken to Mr. Atilla?

5 A. I've participated in phone calls in which he spoke. I
6 don't believe I personally spoke to him on those phone calls.

7 Q. Other than the phone call that's referenced in the memo
8 that you just read, were there any other occasions where you
9 participated in telephone calls with Mr. Atilla?

10 A. I'm not certain. I know that I participated in other
11 telephone calls or discussions with Halkbank officials. I
12 don't recall if Atilla was on those other case calls.

13 Q. So you're not familiar with Mr. Atilla's voice at all; am I
14 correct?

15 A. I -- well, I have heard his voice from the October 29 call.

16 Q. How do you know that it was his voice?

17 THE COURT: How do you know it was him, do you mean?

18 Q. And how do you know it was Mr. Atilla's voice?

19 THE COURT: Is that the question?

20 MR. ROCCO: That's the question, your Honor.

21 THE COURT: Or is it how do you know it was
22 Mr. Atilla?

23 MR. ROCCO: How do you know it was Mr. Atilla's voice.
24 I'll take how do you know it was Mr. Atilla who was speaking.

25 THE COURT: Isn't that what you're asking?

HCB3ATI2

Kirschenbaum - Cross

1 MR. ROCCO: No. The question I'm asking is how do you
2 know it was Mr. Atilla who was speaking.

3 A. I cannot tell you definitively that there wasn't an
4 impostor impersonating him on the call with inside knowledge of
5 the workings of Halkbank. That is hypothetically possible,
6 yes.

7 Q. I wouldn't have thought to be an impostor.

8 THE COURT: We get it. He doesn't know.

9 MR. ROCCO: I didn't need the sarcasm, your Honor.

10 Q. Mr. Kirschenbaum, can we bring up Government Exhibit 7021,
11 the exhibit that you were just referring to and is in evidence.
12 Can I direct your attention to the first page. The line
13 identified as attachments, Halk readout V4.doc.

14 Can you tell me what V4 means?

15 A. Version four.

16 Q. Version four?

17 A. Correct.

18 Q. Do you know what happened to the three prior versions of
19 this document?

20 A. Generally speaking, when a policy advisor, other official
21 of Treasury Department drafts a memo for the consumption of
22 senior decisionmakers like the agency director, we will go
23 through several working drafts and edits to make sure we've
24 represented all the information accurately. So I believe there
25 would have been here three other versions that people would

HCB3ATI2

Kirschenbaum - Cross

1 have edited before the final version that I transmitted to
2 Director Szubin.

3 Q. Would Director Szubin have reviewed this memo?

4 A. Version four?

5 Q. Version four, and -- let's start with version four. Would
6 Director Szubin have reviewed version four?

7 A. Yes. This was actually sent to him. I can tell from the
8 "to" line. This was for his consumption. He was the audience.
9 It is unlikely he would have seen the prior three versions,
10 although I couldn't say definitively at this time.

11 Q. I'm sorry. You said it is unlikely that he would have seen
12 the prior three versions?

13 A. Most likely not, although I can't say for certain.

14 Q. Do you recall who else was on that phone call with you? I
15 see that parts of this are blocked out. But, Michael Lieberman
16 was on the phone call; is that correct?

17 A. I don't know that -- the answer is I'm not sure. The fact
18 that someone is on the "to" line here wouldn't indicate that
19 they were on the call. It means they were a recipient of my
20 memo.

21 Q. When you are on these calls, and I think you testified on
22 direct that you were the note taker. Am I correct?

23 A. Yes.

24 Q. What do you do with your notes typically when you conclude
25 a memorandum based on your notes?

HCB3ATI2

Kirschenbaum - Cross

1 A. Most of the time my notes remain just in my working papers
2 in my office. They wouldn't necessarily be filed with the
3 final memorandum. It is unlikely they would have been.

4 Q. It is unlikely they would have been -- I'm having a heard
5 time hearing you. Can you speak into the microphone.

6 Did you say it's unlikely that they would go into a
7 file?

8 A. Correct. My understanding of your question was my working
9 notes from the call.

10 Q. Yes.

11 A. The general practice -- is that better volume?

12 Q. Yes. Thank you.

13 A. The general practice would be when drafting of the memo was
14 completed, the memo would be disseminated to the audience and
15 filed in our folders on the computer. My working-level
16 handwritten notes in a spiral notebook would generally stay as
17 working papers in my office. They wouldn't typically be filed
18 away with the final memo.

19 Q. If we can go to the second page of the memorandum. Before
20 we get there, this is a phone call that was placed by your
21 office to Mr. Atilla's office or to Halkbank?

22 A. In this instance I don't recall which party called the
23 other. It was between OFAC and Halk. I don't know who called
24 whom.

25 Q. To the best of your recollection, who is on the telephone

HCB3ATI2

Kirschenbaum - Cross

1 call from Treasury, from OFAC?

2 A. So, I know that I myself participated in it and Adam Szubin
3 led the call. I remember there were many other people in the
4 room, but I would be hard pressed to give you an accurate
5 accounting at this point of which people were or were not in
6 the room for that particular call.

7 Q. Aside from Mr. Atilla, do you recall who was on the phone,
8 who was on the call from Halkbank?

9 A. No, I don't.

10 Q. Do you recall if all the people on the Treasury side of the
11 call identified themselves during the conversation or at the
12 outset of the conversation?

13 A. I want to clarify. Your question is whether every Treasury
14 person in the room announced their presence on the call to
15 Mr. Atilla during the call?

16 Q. Yes, sir.

17 A. I don't recall definitively. Likely not. Oftentimes when
18 there is a large group, Director Szubin or someone in that
19 position will explain I'm here, I am the director, and here are
20 a couple other important people, and there are a number of
21 other staff in the room.

22 Q. Do you remember how long the conversation took?

23 A. More than a few minutes but not hours. I couldn't tell you
24 whether it was 20 minutes or an hour. I'm not sure at this
25 point.

HCB3ATI2

Kirschenbaum - Cross

1 Q. Were there any other subjects that you recall being
2 discussed during this telephone conversation?

3 A. Beyond the topics discussed?

4 Q. That are covered by the memo, I apologize.

5 A. No, I don't recall any others.

6 Q. By the way, do you have an independent recollection of this
7 conversation? In other words, do you recall the conversation
8 aside from the memorandum?

9 A. Yes.

10 Q. Have you recently reviewed this memorandum?

11 A. Prior to today?

12 Q. Prior to your testimony today, yes.

13 A. Yes.

14 Q. Where did you do that?

15 A. I reviewed this memorandum in my offices at FinCEN in
16 Washington, D.C. approximately, less than a month ago. A
17 matter of weeks, two or three weeks ago.

18 Q. Did you review it any other time?

19 A. I don't believe I reviewed this exact memorandum any other
20 time. Instances other than today and that previous time in my
21 office.

22 THE COURT: Other than what?

23 THE WITNESS: Other than today in the courtroom and
24 then the instance in my office about three weeks ago. I
25 believe were the only two times.

HCB3ATI2

Kirschenbaum - Cross

1 Q. When you reviewed it three weeks ago, who did you review it
2 with, if anyone?

3 A. With U.S. government personnel, including the Assistant
4 United States Attorney David Denton.

5 Q. This was in connection with your preparation for testimony
6 here today?

7 A. Correct.

8 Q. Did Mr. Denton bring this memo to your attention?

9 A. Yes.

10 Q. You went through the memo with Mr. Denton pretty much like
11 you went through the memorandum with Mr. Denton here today; am
12 I correct?

13 A. More or less, yes.

14 Q. You read it with him, correct?

15 A. Three weeks ago?

16 Q. Three weeks ago, yes, sir.

17 A. Yes, I read the memo in front of him. I read it myself and
18 then we discussed it.

19 Q. I'm sorry. Was this on the telephone?

20 A. This was in person.

21 Q. This was a meeting in person in your office?

22 A. Correct. Or at FinCEN offices in Washington.

23 Q. Your former offices.

24 A. My current office.

25 Q. I'm sorry. So, is that the only time that you met with the

HCB3ATI2

Kirschenbaum - Cross

1 prosecutors in this case in connection with your testimony here
2 today?

3 A. In person you're asking?

4 Q. We'll start with in person.

5 A. In person there was that meeting at FinCEN offices less
6 than a month ago. And then I came up here to this courthouse
7 last week, but my testimony was delayed so I had an in-person
8 interaction last Wednesday.

9 Q. Any other times that you spoke about this memorandum to
10 anybody on the prosecution team?

11 A. By telephone, yes.

12 Q. How many times did that happen?

13 A. We've discussed this memorandum by telephone probably two
14 or three times.

15 Q. If we can, can we talk about now the substance that you
16 referenced on the second page of the memorandum, and I think
17 that you testified to an exemption regarding securities; am I
18 correct?

19 A. Yes.

20 Q. Can you tell me, are securities exempt from the bilateral
21 trade restriction or are they not exempt from the bilateral
22 trade restriction?

23 A. If I may, could I suggest we talk about at the time of this
24 discussion because those -- they're no longer in effect.

25 Q. Thank you for the correction. Absolutely. I'm only

HCB3ATI2

Kirschenbaum - Cross

1 talking about at the time of this discussion.

2 A. So, what I communicated here, excuse me. I summarized Adam
3 Szubin's communication, Director Szubin's communication that
4 OFAC made a interpretation that under the bilateral trade
5 exemptions of Iran sanctions which referred to the limitation
6 on the use of Iranian oil sale proceeds for importation of
7 goods from the purchasing country. That securities did not
8 qualify as goods.

9 So in other words, we said under the sanctions, Iran
10 cannot use the money from sales of oil to Turkey to buy Turkish
11 stocks or bonds. That was our determination, our
12 interpretation of the bilateral trade exemption of sanctions.

13 Q. To your knowledge, had this subject been discussed before
14 with Mr. Atilla or someone else at Halkbank?

15 A. Before when?

16 Q. Before the conversation on October 29, 2013.

17 A. For that I go off the memo, because I don't have personal
18 recollection of those discussions. But my summary references
19 two earlier communications from OFAC to Halk going back to July
20 of 2013, which would have been in response to a prior question
21 from Halk. So the discussion has to go, at least the initial
22 discussion would have had to predate July 16, 2013.

23 Q. Directing your attention to the discussion about
24 humanitarian trade. Am I correct in my understanding that
25 there was a fund of Iranian moneys or an account at Halkbank

HCB3ATI2

Kirschenbaum - Cross

1 that was being depleted as a result of humanitarian trade
2 exemption under the sanctions?

3 A. That is what was represented to OFAC during this phone call
4 between Mr. Atilla and Mr. Szubin. I couldn't tell you
5 factually that's what actually occurred or not.

6 Q. Was it also discussed the reason why those funds were being
7 depleted during the telephone conversation?

8 A. Yes.

9 Q. The funds were being depleted because large companies were
10 using the using those funds to be paid for their transit trade
11 with Iran; is that correct?

12 A. That is correct in what was represented, yes.

13 Q. You also said that the large companies were European and
14 Asian based I think?

15 A. I was using those examples. I meant basically large
16 companies based in any country other than Turkey.

17 Q. How about American companies, like Cargo and Bunge. Were
18 they also mentioned during the call?

19 A. If I could break your question up. American companies
20 would have been allowed to use -- it would have been
21 permissible under sanctions for Iran to pay American exporters
22 of food or medicine or other humanitarian goods to Iran. They
23 could have been paid from those accounts at Halk. And it was
24 represented that large multinational companies from around the
25 world used these accounts. I can also tell you from personal

HCB3ATI2

Kirschenbaum - Cross

1 anecdotal knowledge that I remember Halk was a major hub so
2 many companies --

3 THE COURT: You've got to speak slowly.

4 A. I remember being aware that many large companies had
5 accounts at Halk to be paid for their humanitarian exports. I
6 couldn't comment on specific -- I don't know whether specific
7 companies like Cargo or Bunge or whether any particular
8 American companies did or did not get paid from the accounts.

9 Q. Was it part of the conversation in the form of a complaint
10 that Turkish companies were being pushed out and larger
11 multinational companies were essentially using these funds?

12 A. I wouldn't characterize it as Halk complaining. They told
13 us that the Turkish government had instructed them to cease
14 facilitating the business of the large multinationals because
15 it was a risk of smaller Turkish exports of other types of
16 goods, besides food and medicine, being pushed out.

17 MR. ROCCO: Thank you, Mr. Kirschenbaum. Your Honor,
18 I'm done.

19 THE COURT: Anything further?

20 MR. DENTON: Nothing, your Honor.

21 THE COURT: Thanks very much, Mr. Kirschenbaum.

22 (Witness excused)

23 THE COURT: We'll have the next government witness.

24 MR. LOCKARD: The United States calls Huseyin Korkmaz,
25 K-O-R-K-M-A-Z.

HCB3ATI2

Korkmaz - Direct

1 THE DEPUTY CLERK: Sir, if you can step up to the
2 witness stand, remain standing for a moment. Raise your right
3 hand, please.

4 Do you solemnly swear or affirm that the testimony
5 that you shall give this court and jury in this issue now on
6 trial shall be the truth, the whole truth and nothing but the
7 truth?

8 THE WITNESS: I do.

9 THE DEPUTY CLERK: Thank you, sir. You may be seated.
10 Could you please state your full name for the record and spell
11 your first name as well as your last name.

12 THE WITNESS: Huseyin Korkmaz, H-U-S-E-Y-I-N
13 K-O-R-K-M-A-Z.

14 HUSEYIN KORKMAZ,

15 called as a witness by the Government,

16 having been duly sworn, testified with the aid of a

17 Turkish language interpreter as follows:

18 DIRECT EXAMINATION

19 BY MR. LOCKARD:

20 Q. Good morning, Mr. Korkmaz.

21 A. Good morning.

22 Q. Sir, where are you from originally?

23 A. Turkey.

24 Q. In what country do you reside currently?

25 A. United States of America.

HCB3ATI2

Korkmaz - Direct

1 Q. When you lived in Turkey, did you have a profession?

2 A. Yes.

3 Q. What was that profession?

4 A. I was a deputy inspector in the police force, and I also
5 worked as a consultant for a while.

6 Q. When you were a police officer in Turkey, is there a
7 particular city where you were principally assigned?

8 A. Yes.

9 Q. What city was that?

10 A. It was Istanbul, and later it was Hakkari.

11 Q. During what years --

12 THE COURT: Could we get the spelling for the second
13 city?

14 MR. LOCKARD: Yes, your Honor.

15 THE WITNESS: (In English) H-A-K-K-A-R-I.

16 Q. During what years were you assigned to Istanbul?

17 A. 2010 and 2014.

18 THE COURT: 2010 through 2014?

19 THE WITNESS: That is correct, your Honor.

20 THE COURT: Is the second city Hakkari, is that near
21 Istanbul.

22 THE WITNESS: No, it is not close at all.

23 Q. So we'll get to that in just a moment. But first, while
24 you were assigned to the city of Istanbul, did you become
25 familiar with an investigation involving Reza Zarrab, Mehmet

HCB3ATI2

Korkmaz - Direct

1 Hakan Atilla, and others?

2 MR. HARRISON: Objection, your Honor.

3 THE COURT: Overruled.

4 A. Yes.

5 Q. How was it that you were familiar with that investigation?

6 A. I was the lead for the team that was conducting this
7 investigation.

8 Q. Who were the principal targets of that investigation?

9 A. The investigation had started on the organization that was
10 being led by Reza Zarrab, and then we had identified three
11 other groups that were within the umbrella of this
12 organization.

13 Q. Who were the principal members or leaders of each of those
14 three other groups?

15 A. For the second group, we had understood that Zafer Caglayan
16 and Suleyman Aslan were acting as leaders. And I apologize
17 here, I was referring to the organization led by Reza Zarrab as
18 being the first group. So this would actually be the first
19 group of the other three.

20 So then, the second group for the rest of the groups
21 was being led by Muammer Guler, and a third group --

22 THE COURT: Could you spell the leader of the second
23 group.

24 THE WITNESS: (In English) M-U-A-M-M-E-R G-U-L-E-R.

25 THE COURT: Thank you.

HCB3ATI2

Korkmaz - Direct

1 A. And the third group was being led by -- we identified that
2 person to be Taha Ahmet Alacaci, who had been identified as an
3 individual who had worked with Mr. Reza Zarrab before as a
4 partner and had severed his ways at a later time.

5 THE COURT: Could you spell that.

6 THE WITNESS: (In English) T-A-H-A A-H-M-E-T
7 A-L-A-C-I.

8 THE COURT: Thank you.

9 A. On top of these first two groups that consisted of
10 government individuals, we had identified that there was an
11 individual, head of these two groups, that was described as
12 Mr. Reza Zarrab as number one.

13 Q. So, let's just start with the first people that you
14 mentioned. At the time of your investigation, who was Zafer
15 Caglayan?

16 A. Zafer Caglayan was the minister of economy during that
17 time.

18 Q. At the time of your investigation, who was Suleyman Aslan?

19 A. Suleyman Aslan was the general manager of Halkbank during
20 that time.

21 Q. You also mentioned Muammer Guler. At the time of your
22 investigation, who was Mr. Guler?

23 A. Muammer Guler was the minister of interior during that
24 time.

25 Q. You also mentioned an individual called number one?

HCB3ATI2

Korkmaz - Direct

1 A. Yes.

2 Q. Based on your investigation, did you have an understanding
3 of who number one was?

4 A. Yes.

5 Q. Who did you understand stand that to be?

6 A. Recep Tayyip Erdogan.

7 THE COURT: Could you spell that?

8 THE WITNESS: (In English)

9 R-E-C-E-P T-A-Y-Y-I-P E-R-D-O-G-A-N.

10 Q. At the time of your investigation, who was Mr. Erdogan?

11 A. He was the prime minister during that time.

12 Q. So, Mr. Korkmaz, we'll come back and discuss your
13 investigation in a little bit more detail in a few minutes.
14 I'd like first to ask you a little about your background, your
15 profession and your training.

16 Mr. Korkmaz, how far did you go in school?

17 A. I'm a graduate of the police academy, meaning a university
18 graduate.

19 Q. When did you get your degree from the police academy?

20 A. It was in 2010.

21 Q. Did you have any training or education in law enforcement
22 prior to attending the police academy?

23 A. Yes.

24 Q. What was that training or education?

25 A. I also studied in the police college, which is a high

HCB3ATI2

Korkmaz - Direct

1 school.

2 Q. Is that a high school with a law enforcement focus?

3 A. In terms of its curriculum, that is a school that focuses
4 mostly on physical sciences, but as far as its positioning, it
5 is a high school positioned to be before the police academy, to
6 college level. And it is a school that is established by the
7 government in order to have ranked police officers that
8 graduate from that school.

9 Q. When you graduated from the police academy in 2010, did you
10 have any particular honors or awards as part of your degree?

11 A. Yes.

12 Q. Can you describe what those were.

13 A. I had finished the school as the third student in rank.

14 Q. That's out of a class of how many?

15 A. It was 360 and some.

16 Q. Where was your first assignment after graduating from the
17 police academy?

18 A. Istanbul.

19 Q. Were you assigned any particular unit in Istanbul?

20 A. Yes.

21 Q. What unit were you assigned to in 2010?

22 A. It was the battling financial crimes unit.

23 Q. Did you have any particular area of focus within the
24 financial crimes unit?

25 A. Yes.

HCB3ATI2

Korkmaz - Direct

1 Q. What was your focus when you were initially assigned to the
2 financial crimes unit?

3 A. It was battling economic crimes.

4 Q. Can you describe a little more about what kinds of crimes
5 are included in that definition?

6 A. The desk that I was assigned to was dealing with major
7 fraud crimes.

8 Q. Was that a supervisory position?

9 A. Yes, I was a ranked officer at a deputy inspector level,
10 and I was a team lead.

11 Q. Approximately how large was your team at that time?

12 A. I had started with three officers, which was then expanded
13 to four officers.

14 Q. Did there come a time when you took over a new
15 responsibility within the financial crimes unit?

16 A. Yes.

17 Q. When was that?

18 A. It was in early 2012.

19 Q. What was your new position in early 2012?

20 A. I became the team lead for projects and corruption.

21 Q. Before you took over that team, what had been the
22 responsibilities of that group?

23 A. This group was in two separate desks and was the projects
24 as well as the corruption, they were working separately. The
25 corruption desk was dealing with bribery, embezzlement, and

HCB3ATI2

Korkmaz - Direct

1 also bid interference and also crimes related to execution of
2 contracts after bids.

3 And the project desk was conducting investigations on
4 the organized aspect of the crimes being looked after by the
5 corruption desk. So, those that were being committed as an
6 organized fashion, the project desk was investigating those.

7 Q. When you took over responsibility for that group, what were
8 the responsibilities of that group going forward?

9 A. So the tasks that I listed earlier basically merged. And
10 then for all the teams within the unit, then all of their
11 organized crime tasks were combined within the corruption and
12 projects desk.

13 Q. So what kinds of organized crime investigations would fall
14 under the projects group?

15 A. So, the major fraud that would be looked after within the
16 entire unit, also usury and money laundering or criminal
17 proceeds laundering, so within these crimes, those that are
18 committed as an organization, the projects and corruption desk
19 would investigate those.

20 Q. Approximately how many officers did you supervise as the
21 head of the projects and public corruption desk?

22 A. At the time that I left, it was eight.

23 Q. For how long were you the supervisor at that desk?

24 A. Close to two years.

25 Q. During your time in the financial crimes unit in Istanbul,

HCB3ATI2

Korkmaz - Direct

1 did you have additional training that you took?

2 A. Yes.

3 Q. Can you describe some of the additional training that you
4 received while in the financial crimes unit.

5 A. The financial crimes unit was under the umbrella of KOM,
6 which stood for antismuggling and organized crimes directorate.
7 And within the KOM, then there was an international training
8 unit called TADOC. And within that TADOC, I received training
9 under many titles.

10 Q. Just to help out the record, can you explain what TADOC is,
11 including how to spell it?

12 A. T-A-D-O-C. TADOC is an English name that I don't remember
13 what it stood for. But the spelling is as such, T-A-D-O-C.
14 And through this place, expert training was being provided at
15 the international level and also in fields that would fall
16 under the KOM.

17 Q. Can you give us just a couple of examples of the kinds of
18 training you received through that program.

19 A. I had received a two-week training that pertained to KOM
20 branch. And I also had received training on analysis of
21 criminal data. I had received training on an expert in
22 economic crimes. I had received training on crimes pertaining
23 to corruption. I also received training on operational police
24 tactics and shooting.

25 Q. During your time in the financial crimes unit, did you

HCB3ATI2

Korkmaz - Direct

1 provide training to others?

2 A. Yes.

3 Q. Can you describe the training that you provided to others?

4 A. TADOC took me as an instructor, and I provided training in
5 battling economic crimes.

6 Q. So let's turn back to the investigation that you started
7 describing earlier.

8 When did that investigation originate?

9 A. This investigation had started in 2013. I'm sorry, it was
10 2012. In September of 2012.

11 Q. When the investigation began, who were the principal
12 suspects of the investigation?

13 A. When the investigation initially began, it was an
14 investigation on Reza Zarrab and his organization as the
15 nucleus of the organization.

16 Q. What was the type of conduct that was principally being
17 investigated at the outset?

18 A. At the outset, the conducts that were being investigated
19 were smuggling, laundering of criminal proceeds or money
20 laundering, and committing these crimes as an organized crime
21 unit.

22 Q. When you say "smuggling," smuggling of what?

23 A. Gold.

24 Q. When you first became involved in the investigation, did
25 you have any familiarity with Mr. Zarrab prior to that time?

HCB3ATI2

Korkmaz - Direct

1 A. Prior to the investigation, I did not know Mr. Reza Zarrab.
2 But that may not be an objective observation because,
3 apparently, the rest of the team knew him through magazine
4 news, through entertainment news, and I was not into those
5 news, so I did not know much about Mr. Zarrab.

6 Q. I think you said that as the investigation went on, the
7 people who were the suspects of the investigation changed; is
8 that right?

9 A. That is correct.

10 Q. And grew to include Mr. Caglayan, Mr. Aslan, Mr. Guler,
11 Mr. Alacaci, Mr. Erdogan, and others; is that right?

12 MR. HARRISON: Objection to form, your Honor.

13 THE COURT: I'll allow it.

14 A. I actually did not understand the question fully.

15 Q. I'll ask a different question to get us there.

16 Did the type of conduct being investigated change as
17 the investigation went along?

18 A. Yes.

19 Q. What additional types of conduct came to be under the scope
20 of the investigation?

21 A. Bribery and document forgery.

22 Q. As the types of conduct that were being investigated grew,
23 did additional individuals come within the scope of the
24 investigation as well?

25 A. Yes.

HCB3ATI2

Korkmaz - Direct

1 Q. What additional individuals became within the scope of the
2 investigation?

3 A. Suleyman Aslan, Muammer Guler, Salih Khan Caglayan, Ozgur
4 Ozdemir, Hikmet Tuner, Onur Kaya, Mustafa Behcet Kaynar.

5 Q. Is it fair to say a number of individuals came within the
6 scope of the investigation?

7 MR. HARRISON: Objection, your Honor.

8 THE COURT: Overruled.

9 A. It's actually many more. If I had more time, I would
10 probably count more names.

11 THE COURT: Do you know how many people were
12 investigated or who were subject of the investigation, all
13 together?

14 THE WITNESS: Your Honor, what I remember as the count
15 of suspects that were listed within the scope of an operation
16 that was conducted on December 17, that was about 32 to the
17 best of my recollection. But as far as individuals that were
18 suspects within the investigation itself, that was between 50
19 and 100.

20 A. Shall I continue with other names that I remember?

21 Q. I think we can try and draw out particular people as they
22 come up. I think one of the people you mentioned earlier was
23 Suleyman Aslan.

24 A. Yes.

25 Q. The general manager of Halkbank at the time?

HCB3ATI2

Korkmaz - Direct

1 A. Yes.

2 Q. For what type of conduct was Mr. Aslan being investigated?

3 A. Leading an organization, bribery, document forgery, and
4 also laundering, money laundering.

5 Q. Were there others at Halkbank whose conduct was also within
6 the scope of the investigation?

7 MR. HARRISON: Objection, your Honor.

8 THE COURT: Overruled.

9 A. Yes.

10 Q. Who were those other individuals?

11 A. Mr. Hakan Atilla, Levent Balkan, Hakan Aydogan.

12 Q. You described one of the offenses being investigated was
13 bribery.

14 A. Yes.

15 Q. What, if anything, did your investigation show about
16 whether Mr. Aslan was receiving bribes?

17 A. It was very high and it was in various ways.

18 Q. What, if anything, did your investigation show about
19 whether Mr. Atilla was receiving bribes?

20 A. That was not something that had come up.

21 Q. What, if anything, did your investigation show about
22 whether Mr. Balkan was receiving bribes?

23 A. No. No, in fact the individual had refused a matter that
24 could be construed as bribery.

25 Q. What do you mean by that?

HCB3ATI2

Korkmaz - Direct

1 A. It was in relation to a transaction that was conducted, and
2 an individual named Nesteren Zarei Deniz had wanted to send him
3 some boxes of sweets.

4 THE COURT: To who?

5 THE INTERPRETER: Send to him.

6 THE COURT: Who is "him"?

7 THE WITNESS: To Levent Balkan.

8 MR. HARRISON: I'm going to object based on foundation
9 and hearsay.

10 THE COURT: Thanks. Overruled.

11 A. So, Nesteren offered to give boxes of sweets in return for
12 the transaction that was being conducted by the individual
13 named Levent Balkan, and Balkan took care of the transaction
14 anyway, but said that receiving the sweets would not be
15 appropriate and refused it.

16 Q. Lastly, Mr. Aydogan. What, if anything, did your
17 investigation show about whether Mr. Aydogan was receiving
18 bribes?

19 MR. HARRISON: Objection to foundation and hearsay.

20 THE COURT: Overruled, counsel.

21 A. We had suspicions on that matter. Taha Ahmet Alacaci, who
22 was one of the suspects in the investigation, invited this
23 individual out to the restaurant to meet with him. And the
24 person that had made this reservation for this restaurant was
25 this individual named Taha Ahmet Alacaci.

HCB3ATI2

Korkmaz - Direct

1 Q. Did you develop any further evidence that Mr. Aydogan had
2 received bribes besides the restaurant invitation?

3 MR. HARRISON: Objection to foundation and hearsay and
4 lack of personal knowledge.

5 THE COURT: Overruled.

6 A. I'm not that sure about this, but I believe there was
7 something about moving a house also, but I'm not sure about
8 this one.

9 Q. I'd like to talk a little bit about what was received in
10 exchange for the bribes. Before we do that, let me just ask
11 you a few questions generally about how the investigation was
12 conducted.

13 MR. HARRISON: Objection to form.

14 THE COURT: Overruled.

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HCBPATI3

Korkmaz - Direct

1 Q. What were the principal investigative techniques that you
2 used in your investigation?

3 A. Identification of communications and interception of such
4 communications, surveillance through technical tools, physical
5 surveillance, security camera footage, analysis of mails,
6 documents that were obtained through institutions, auditor and
7 expert reports, pieces of evidence that were seized during the
8 searches within the operation, and also the digital evidence
9 that were seized during the operation.

10 THE COURT: Did you say digital?

11 THE INTERPRETER: Digital evidence.

12 Q. And when you talk about things that you learned from the
13 investigation, are you describing things that you learned from
14 these investigative techniques?

15 A. Yes.

16 Q. And from that evidence, what did it show about what types
17 of benefits were provided in exchange for payments that were
18 made?

19 MR. HARRISON: Objection, your Honor.

20 THE COURT: Overruled.

21 MR. HARRISON: Foundation, hearsay.

22 THE COURT: I'm sorry?

23 MR. HARRISON: Foundation, hearsay, lack of personal
24 knowledge.

25 THE COURT: Oh, okay. Overruled.

HCBPATI3

Korkmaz - Direct

1 THE INTERPRETER: Could you please repeat that
2 question? I'm sorry.

3 BY MR. LOCKARD:

4 Q. Could you describe, at a general level, what the evidence
5 indicated about the benefits provided in exchange for the
6 payments?

7 A. It was the oil and gas payment reserves of Iran being
8 utilized in gold trade and establishing and supporting such a
9 system in doing so and within the system, making Mr. Zarrab
10 into a cartel for doing these things.

11 And, also, the use of the Iranian oil and gas funds in
12 the fake transit trade system establishment, and support of
13 such a system and having Reza Zarrab become a cartel within the
14 Halkbank, in terms of using this transit trade method.

15 And also, providing of reference letters for the front
16 companies that were utilized in transferring the Iranian oil
17 money that was kept in China also. So providing loan to Reza
18 Zarrab for a hotel investment.

19 And also, with regards to 1.5-tons of gold that was
20 brought over from Ghana with completely fake documents and in
21 terms of letting this shipment come in and go out of the
22 country without confiscation and allowing that shipment to go
23 out to Dubai.

24 THE COURT: And which country is he talking about, the
25 gold came from Ghana to where?

HCBPATI3

Korkmaz - Direct

1 THE WITNESS: Turkey, your Honor.

2 THE COURT: And you mentioned a loan a few minutes
3 ago, a loan from who to who?

4 THE WITNESS: It was from Halkbank to the Arkla Hotel
5 Company that was Reza Zarrab's company.

6 Also, the gold trade method restarting during a time
7 when gold trade had been banned and the transit trade was being
8 utilized.

9 THE COURT: And when was that?

10 THE WITNESS: This is after July, starting from
11 September, sir.

12 THE COURT: Of what year?

13 THE WITNESS: 2013.

14 Also, providing Turkish citizenship to family members
15 and members of his organization, of Reza Zarrab.

16 And also, taking over of Sarkuysan Corporation by Reza
17 Zarrab and his friends by using powers in the government,
18 providing an official guard to Mr. Reza Zarrab, the exile of a
19 police chief, who was not on good terms with Reza Zarrab.

20 BY MR. LOCKARD:

21 Q. So, Mr. Korkmaz, I'd like to, if we can, talk about a
22 little bit of the evidence relating to the payment of bribes
23 that you developed in your investigation.

24 And, Mr. Chang-Frieden, if you could show for
25 Mr. Korkmaz Government's Exhibit 106.

HCBPATI3

Korkmaz - Direct

1 Mr. Korkmaz, do you see what's shown before you?

2 A. Yes.

3 Q. And how is it that you're able to recognize Government's
4 Exhibit 106?

5 A. This is an image of the funds that had been sent in
6 shoeboxes, what we identified as had been sent by Reza Zarrab
7 in the past, and these were found in the house of Suleyman
8 Aslan during a search that was conducted on December 17th,
9 2013.

10 MR. HARRISON: Judge, I object and move to strike
11 based on foundation, lack of foundation --

12 THE COURT: Just out of curiosity, what does the
13 foundation objection mean?

14 MR. HARRISON: Judge, I don't believe that we have the
15 underlying evidence in this case, and I believe under 403, it
16 is unfair to allow images of it in. I think he's --

17 THE COURT: I'm trying to understand what you mean by
18 foundation.

19 MR. HARRISON: Sure. Judge, I don't think he's --

20 THE COURT: Well, if you could just explain what's
21 wrong with the foundation that has been established.

22 MR. HARRISON: Sure. Judge, I don't think he has any
23 personal knowledge of the images in this picture.

24 THE COURT: As the investigator in this investigation,
25 he does not --

HCBPATI3

Korkmaz - Direct

1 MR. HARRISON: Yes, I don't think he was --

2 THE COURT: Overruled.

3 BY MR. LOCKARD:

4 Q. So, Mr. Korkmaz, is this an image that was obtained in the
5 course of the investigation?

6 A. Yes.

7 Q. And when did you obtain the image that's shown?

8 A. We obtained it during the operation that was conducted, and
9 also on the same day, during the deposition of an individual
10 named Fatma Aslan we utilized these images.

11 Q. And just focusing on when you obtained the image, from whom
12 did you obtain the image?

13 A. The teams that went out to conduct the searches, they had
14 utilized video and images also on site. So they had brought
15 these back to the unit.

16 Q. And what, if any, instructions did you provide to the team
17 that had provided you with this image before the operation
18 began?

19 A. I had instructed them that there might be large amounts of
20 money that is being kept in the house of Suleyman Aslan, either
21 in shoeboxes or in other ways, and I reminded them that these
22 monies may be subject to the investigation, the criminal
23 proceeds that are mentioned in the investigation; that these
24 may be related to those funds, and that if found, that they
25 should be seized and that there was also a court order to that

HCBPATI3

Korkmaz - Direct

1 effect anyway, to confiscate any item that may be identified
2 during the searches.

3 Q. And then when did you obtain this image from the team that
4 had been assigned to the Suleyman Aslan search?

5 THE INTERPRETER: Could you please repeat that again,
6 please.

7 Q. And then when did you first obtain the image that had
8 been -- when did you first obtain the image from the team that
9 you had assigned to search Mr. Aslan's home?

10 A. It was first sent to my unit chief and most likely it was
11 on WhatsApp. In addition to that, the team that had gone to do
12 the search at Suleyman Aslan's, a part of that team that
13 conducted the search, I saw them coming in during the evening.
14 And during the evening time, I recall watching some of the
15 images, the video that had been brought in.

16 Q. And what, if anything else, did the team assigned to the
17 Suleyman Aslan search bring back that relates to the image
18 shown in this picture?

19 A. There were documents that were seized. There were
20 notebooks, digital evidence. There was an image that had been
21 obtained on site, but as far as the image or the images that
22 were obtained on site, I recall that those images were brought
23 in at night, actually, because the teams that had conducted the
24 search at Suleyman Aslan's home had gone to the Halkbank office
25 after that search, and after that, they brought the images

HCBPATI3

Korkmaz - Direct

1 over.

2 Q. Mr. Korkmaz, focusing just on what's shown in Government
3 Exhibit 106, did the team bring back anything that relates to
4 that image?

5 A. So here, there is a white box shown on the bottom. This
6 white box is a shoebox with the Inci brand. This was a bribery
7 payment that we had identified during our investigation that
8 had been sent to Suleyman Aslan's home previously, and the
9 images, as well as the shoeboxes mentioned, were brought into
10 our unit.

11 Q. What about money?

12 A. That came.

13 MR. LOCKARD: Your Honor, the government offers 106
14 and ask that it be published to the jury.

15 MR. HARRISON: Same objection, Judge.

16 THE COURT: Okay. I'm going to allow it.

17 (Government's Exhibit 106 received in evidence)

18 THE WITNESS: Can we get water, please? Thank you.

19 MR. LOCKARD: Thank you, Mr. Chang-Frieden.

20 BY MR. LOCKARD:

21 Q. And, Mr. Korkmaz, can you remind us, when was the
22 operation -- on what date was the operation during which this
23 photograph was taken?

24 A. It was December 17th, 2013.

25 Q. Can we also show for Mr. Korkmaz Government's Exhibit 105.

HCBPATI3

Korkmaz - Direct

1 Mr. Korkmaz, do you recognize that photograph?

2 A. Yes.

3 Q. And how do you recognize that photograph?

4 A. Likewise, this was an image that was taken during the 17th
5 of December 2013 operation at Suleyman Aslan's home and, again,
6 likewise, the image was utilized in Fatma Aslan's deposition
7 later.

8 MR. LOCKARD: I offer Government's Exhibit 105 and ask
9 that it be published.

10 MR. HARRISON: Same objection.

11 THE COURT: I'll allow it.

12 (Government's Exhibit 105 received in evidence)

13 THE COURT: It's a little difficult to make out the
14 image. Could you inquire, counsel, about what's in that photo?

15 BY MR. LOCKARD:

16 Q. And, Mr. Korkmaz, can you describe what's depicted in
17 Government's Exhibit 105?

18 A. It's stacks of 100-dollar bank notes, also stacks of Euro
19 bank notes at 500 Euros each, also stacks of 100 Turkish Lira
20 bank notes.

21 Q. And this photograph was taken where?

22 A. At the home of Suleyman Aslan.

23 Q. Now, you also mentioned that the investigation related to
24 bribe payments paid to Mr. Caglayan?

25 A. Yes.

HCBPATI3

Korkmaz - Direct

1 Q. Mr. Chang-Frieden, could you please show for
2 Mr. Korkmaz Government's Exhibit 971-16.

3 Mr. Korkmaz, do you recognize that?

4 A. Yes.

5 Q. And how is it that you're able to recognize that?

6 A. It's an image that was taken during the technical
7 surveillance that was conducted on the bribery transportation
8 at the airport on August 30th of 2013 within our investigation.

9 Q. And from whom did you obtain the image that's shown in this
10 exhibit?

11 A. This image was taken out of video footage and the team, the
12 surveillance staff, that had gone on site to participate in
13 this had obtained it and brought it into the unit. So as soon
14 as it had arrived at the unit, I had watched it, and I had also
15 watched it when the surveillance team brought over the CD that
16 contained their reports on this technical surveillance
17 activity.

18 Q. And what, if any, instructions had you given to the
19 surveillance team before they had gone out on the surveillance?

20 A. We had discussed this with the surveillance team lead, as
21 well as the assistant director for the unit and my supervisor
22 of the unit, and we had discussed that it would be appropriate
23 to open up and look at the monies that were in there.

24 Q. And approximately how much time passed between when you
25 gave those instructions and you got the image that's shown in

HCBPATI3

Korkmaz - Direct

1 Government's Exhibit 971-16 number?

2 A. It was all on that same day. So I apologize, the
3 surveillance had been decided upon a few days before, and we
4 had decided on that day, during the day of the operation, that
5 the bags should be opened.

6 Q. And what's the day when you got the images?

7 A. It's August 30th, 2013.

8 MR. LOCKARD: The government offers 971-16.

9 MR. HARRISON: Same objection, Judge.

10 THE COURT: I'll allow it.

11 (Government's Exhibit 971-16 received in evidence)

12 BY MR. LOCKARD:

13 Q. Mr. Korkmaz, do you recognize the individuals that are
14 shown in 971-16?

15 A. I recognize two of them.

16 Q. And who are the two men that you recognize?

17 A. The one on the left in white clothes with glasses, that is
18 Ahmet Murat Ozis. He was one of the suspects in our
19 investigation. Also, to the far right of the photograph is an
20 individual that is known as Sadegh, and an individual that we
21 also refer to in our investigation is Sadegh. He's an Iranian
22 individual named Mohammadsadegh Rastgarshishegh.

23 Q. What did you learn from the investigation about who
24 Mr. Ozis and Mr. Sadegh were?

25 MR. HARRISON: Objection, calls for hearsay.

HCBPATI3

Korkmaz - Direct

1 THE COURT: Overruled.

2 A. Ahmet Murat Ozis was someone in the organization who was a
3 reliable courier to be utilized in bribery deliveries. Aside
4 from that, he was also an individual within the organization
5 that was dealing with the passenger list that was needed in
6 order to be able to do the gold exports. And he was also the
7 official administrator of a company called Tasbasi, which was
8 also under the control of Mr. Reza Zarrab. And he was also
9 responsible for the import of gold that would be brought back
10 from Dubai that had been sent through this company, as well as
11 the Duru Company.

12 Q. And when you said Mr. Ozis did those things, who did he do
13 them for?

14 THE INTERPRETER: I'm sorry, you're going to have to
15 repeat that again.

16 Q. When you said that Mr. Ozis did those things that you
17 described, who did he do them for?

18 A. For the leader of the organization, Reza Zarrab.

19 Q. And did Mr. Sadegh also work for Mr. Zarrab?

20 A. Yes.

21 Q. And what is shown in Government's Exhibit 971, where was
22 that taken?

23 A. This is at the Turk airport. This was an image that was
24 taken inside a domestic terminal, at the entrance, and the
25 individuals were stopped by undercover police officers that

HCBPATI3

Korkmaz - Direct

1 were tasked at the airport, and their suitcases and bags were
2 open.

3 Q. And did you have an understanding of where Mr. Ozis and
4 Mr. Sadegh were traveling?

5 A. Yes.

6 Q. And on what kinds of evidence was your understanding based?

7 A. Based on phone conversations.

8 Q. And where were Mr. Sadegh or Mr. Ozis going?

9 A. They went to the province of Ankara, to the house of Salih
10 Kaan Caglayan.

11 Q. And who is Mr. Salih Kaan Caglayan?

12 A. He is the son of Zafer Caglayan, who was the minister of
13 economy at that time.

14 Q. And other than the individuals in 971-16, what else is
15 shown in that picture?

16 A. Monies that were inside the backpack.

17 MR. LOCKARD: And, Mr. Chang-Frieden, if you could
18 please show Mr. Korkmaz Government's Exhibit 971-15.

19 Q. Do you recognize that?

20 A. Yes.

21 Q. Is that from the same surveillance?

22 A. Yes.

23 MR. LOCKARD: We offer 971-15.

24 MR. HARRISON: Same objection, sir.

25 THE COURT: I'll allow it.

HCBPATI3

Korkmaz - Direct

(Government's Exhibit 971-15 received in evidence)

BY MR. LOCKARD:

Q. And, Mr. Korkmaz, could you please describe what's shown in this photograph?

A. That's stacks of money that's inside a suitcase.

Q. Now, Mr. Korkmaz, you said that this delivery was on August 30th of 2013?

A. Yes.

Q. Is there any particular significance to that date?

A. Yes.

Q. And what is the significance of August 30th, 2013?

A. The date of August 30th is the holiday of Victory Day in Turkey.

Q. And what is the word for "victory" in Turkish?

A. It's "zafer."

Q. Mr. Chang-Frieden, if you could please now show Mr. Korkmaz Government's Exhibit 971-78.

Mr. Korkmaz, do you recognize this?

A. Yes.

Q. And is this also obtained from your investigation?

A. Yes.

Q. And how did you obtain what's shown in 971-78?

A. This was obtained through technical surveillance on April 19th, 2013, by the surveillance teams. It was brought in on the same day when I watched it, as it was brought in, and

HCBPATI3

Korkmaz - Direct

1 then the surveillance team later provided their report, as well
2 as a CD for this activity, and I remember watching it also when
3 they brought those.

4 MR. LOCKARD: The government offers 971-78 and ask
5 that it be published to the jury.

6 MR. HARRISON: Same objections, your Honor.

7 THE COURT: I'll allow it.

8 (Government's Exhibit 971-78 received in evidence)

9 BY MR. LOCKARD:

10 Q. Mr. Korkmaz, can you remind us on what date this image was
11 taken?

12 A. This is a frame taken from a video that had been shot on
13 April 19th, 2013.

14 Q. And who is shown in this photograph?

15 A. Reza Zarrab. And the individual that is marked as the
16 guard of Mr. Reza Zarrab. I believe on that day that that
17 individual may be Yucel Ozcil, and then also an individual that
18 is marked here as the driver of Mr. Reza Zarrab.

19 Q. And where is this photograph taken?

20 A. In Ikitelli in Istanbul, at the Istanbul office at the
21 Ministry of European Union.

22 Q. And when this photograph was taken, or when this image was
23 taken, at that time, did you have an understanding of the
24 purpose of Mr. Zarrab's visit to the EU ministry?

25 A. Yes.

HCBPATI3

Korkmaz - Direct

1 Q. And on what types of evidence was that understanding based?

2 A. Phone conversations.

3 MR. HARRISON: Objection, to form, your Honor. Calls
4 for hearsay.

5 THE COURT: I'll allow it.

6 A. Phone conversations.

7 Q. Phone conversations from intercepts conducted in your
8 investigation?

9 A. Yes.

10 Q. And what was the purpose of Mr. Zarrab's visit?

11 A. Before this visit, he had talked to Abdullah Hapmani and
12 had instructed Hapmani to prepare \$500,000 in a shoebox to be
13 delivered in Ikitelli, and that this would be a payment about
14 Aktif Bank, which they in the organization referred to as
15 "Active."

16 Q. A payment to who?

17 A. Not based on the phone conversation that I just referred
18 to, but based on other phone conversations, we understood that
19 to be Mr. Egemen Bagis.

20 Q. Remind us, who was Mr. Bagis at the time of the
21 investigation?

22 A. He was the minister of European Union during that time.

23 MR. HARRISON: Objection, Judge. Move to strike.

24 THE COURT: Overruled.

25 MR. LOCKARD: Mr. Chang-Frieden, if you could please

HCBPATI3

Korkmaz - Direct

1 show Mr. Korkmaz Government's Exhibit 9 --

2 THE COURT: Excuse me. Could you spell his name
3 again? I missed it the last time.

4 THE WITNESS: (In English) E-d-e-m-e-n, B-a-g-i-s.

5 THE COURT: And his title or his position, pursuant to
6 your investigation, was what on this day?

7 THE WITNESS: He was the minister of European Union,
8 sir, during that time.

9 THE COURT: So that minister of European Union was a
10 Turkish citizen or a citizen of some other country?

11 THE WITNESS: Your Honor, the European ministry is a
12 ministry within the Turkish government, and he was serving in
13 that capacity, and he's a Turkish citizen. I also know that he
14 does have other citizenships, but as far as this ministry, this
15 is a Turkish government ministry.

16 THE COURT: Very good. That was my question. Do you
17 want to take a five-minute break or wait until lunch? Take
18 five minutes.

19 (Jury not present)

20 Okay. We'll see you in five. Counsel, is someone
21 going to show the witness out?

22 (Witness temporarily excused)

23 (Recess)

24 (Continued on next page)

25

HCB3ATI4

Korkmaz - Direct

1 (In open court; jury not present)

2 THE COURT: Counsel, you have an application? If so,
3 we should do it at sidebar because we have the witness on the
4 witness stand.

5 (At the sidebar)

6 MR. HARRISON: Judge, the defense is moving for a
7 mistrial at this time based on what we believe to be the
8 extreme prejudice that's coming from this witness, who is
9 essentially testifying, as far as we can tell, to the contents
10 of the police file. The police file --

11 THE COURT: The Turkish police file?

12 MR. HARRISON: Of which we only have partial stuff,
13 which was stolen from Turkey.

14 THE COURT: How do you know that? How do you know it
15 was stolen from Turkey?

16 MR. HARRISON: That's I believe what the witness is
17 going to testify to.

18 THE COURT: How do you know that? You're making an
19 application.

20 MR. HARRISON: We've seen it in 3500 material.

21 THE COURT: That it's stolen?

22 MR. HARRISON: Yes, Judge. He's essentially
23 testifying to things that -- to recordings and things that have
24 not been authenticated, have not been -- there has been no
25 showing of chain of custody. He is essentially testifying as

HCB3ATI4

Korkmaz - Direct

1 both a summary witness and as an opinion witness as to his
2 opinion of what is contained in the police file. I don't
3 believe he has any personal knowledge of the surveillance that
4 he's talking about, of the seizures that he's talking about. I
5 think he testified he was a supervising officer who didn't do
6 those things.

7 In addition to the fact that he's referred to our
8 client as a suspect in a totally separate investigation. We
9 think is overly prejudicial.

10 THE COURT: He referred to your client I think one
11 occasion. That's the basis of the mistrial?

12 MR. HARRISON: All the things I just said.

13 THE COURT: But you also said they don't pertain to
14 your client. Nevertheless, that is the basis for your
15 mistrial, your client's mistrial?

16 MR. HARRISON: All of the things I said are the basis.
17 There's been a reference to my client a couple of times as a
18 suspect. And then there has been a description of all this
19 other evidence that, frankly, we don't think is directly
20 relevant to him. That's also prejudicial.

21 THE COURT: I don't think you moved on relevance.
22 Mostly foundation and hearsay.

23 The motion for a mistrial is pretty serious stuff.
24 You're going to have to put it in writing.

25 MR. HARRISON: Okay.

HCB3ATI4

Korkmaz - Direct

1 THE COURT: And tell me when you want to do that by.
2 In the meantime, I'm going to go forward.

3 MR. HARRISON: Okay. 9 o'clock this evening, Judge.

4 THE COURT: Nine? Okay. And when is the government
5 able to respond?

6 MR. LOCKARD: I assume -- would the Court like it by
7 the morning or would it like it by --

8 THE COURT: Do we think that the witness will still be
9 testifying?

10 MR. LOCKARD: Yes.

11 THE COURT: Into tomorrow?

12 MR. ROCCO: If I may. I think perhaps it might be
13 better to do this at the end of the witness's direct testimony.

14 THE COURT: Do what?

15 MR. ROCCO: Make this formal application. We'll renew
16 our application for a mistrial and perhaps do the submissions
17 then. So we've heard at least what this witness has had to say
18 on direct.

19 THE COURT: You tell me when you want to make the
20 motion.

21 MR. ROCCO: We're happy to do it now. We thought it
22 best --

23 THE COURT: The writing. You don't have that
24 available now, do you?

25 MR. ROCCO: No.

HCB3ATI4

Korkmaz - Direct

1 THE COURT: I want the motion in writing.

2 MR. ROCCO: What we're saying, your Honor, what I'm
3 saying is perhaps -- and I'm only suggesting this to the Court.
4 Mr. Harrison said we can do it by 9 o'clock this evening.
5 That's fine. It may be better, since you are allowing the
6 testimony to go forward, it may be better to do it at the end
7 of the direct testimony.

8 MR. HARRISON: That's our request then.

9 MR. ROCCO: That would be our request.

10 THE COURT: Is what?

11 MR. ROCCO: To make the formal motion in writing at
12 the end of the witness's testimony.

13 THE COURT: When is that likely to be, in your
14 estimation?

15 MR. LOCKARD: I think we're going to be interrupted
16 this afternoon by the remainder of Mr. Cohen. Then we're going
17 to be interrupted tomorrow morning by Mr. Szubin. So I expect
18 this witness probably will finish up some time during the day
19 on Wednesday.

20 THE COURT: With his direct?

21 MR. LOCKARD: Yes.

22 THE COURT: Giving them more time. So is that okay
23 with you?

24 MR. ROCCO: That's fine.

25 MR. HARRISON: Yes, thank you.

HCB3ATI4

Korkmaz - Direct

1 THE COURT: Why don't we, when it is finished,
2 reconvene so to speak and set a date for both the moving brief
3 and the opposition brief. How that's?

4 MR. ROCCO: That's fine. I don't think I'm going to
5 be more than an hour this afternoon with Cohen. So you think
6 you are going to put him back on the stand I assume, correct?

7 MR. LOCKARD: Mr. Korkmaz? We'll have time.

8 THE COURT: With respect to Cohen, I have no objection
9 to meeting his schedule. I'm sure that's okay with you.

10 MR. ROCCO: Sure.

11 THE COURT: So when he shows up, we'll stop his
12 direct, try and finish up with Mr. Cohen, and then bring him
13 back. Depending on where we are on time for direct, or did you
14 say Szubin?

15 MR. LOCKARD: We expect Mr. Cohen will be here after
16 the lunch break, so we anticipate we'll finish out the morning
17 with Mr. Korkmaz, start and finish Mr. Cohen after lunch, and
18 we can resume with Mr. Korkmaz until tomorrow morning. As we
19 had discussed last week, because of the end of the week
20 scheduling problems, Mr. Szubin will start first thing
21 tomorrow. And then when he concludes his testimony, we'll
22 resume Mr. Korkmaz and go to the end of his direct.

23 THE COURT: I got it.

24 MR. LOCKARD: It is a little choppy.

25 THE COURT: That works. It was a little unclear to me

HCB3ATI4

Korkmaz - Direct

1 at first, but Szubin is the first witness tomorrow morning.

2 MR. LOCKARD: Yes, your Honor.

3 (In open court; jury present)

4 THE COURT: We'll resume with the direct examination.

5 THE DEPUTY CLERK: Sir, before we begin, I'd like to
6 remind you that you're still under oath.

7 THE WITNESS: Okay.

8 BY MR. LOCKARD:

9 Q. Mr. Korkmaz, good afternoon.

10 A. You too as well.

11 Q. Before the break we had been looking at a surveillance
12 photograph of Mr. Zarrab. Just to clarify, are Reza Zarrab and
13 Riza Sarraf the same person?

14 A. Yes.

15 Q. We've been looking at a surveillance photograph taken
16 during Mr. Zarrab's visit to the office of the Ministry of E.U.
17 Affairs.

18 A. Yes.

19 MR. LOCKARD: Mr. Chang-Frieden, if you can please
20 show Mr. Korkmaz Government Exhibit 971-79.

21 Q. Mr. Korkmaz, do you recognize that image?

22 A. Yes.

23 Q. Is that taken from the same surveillance?

24 A. That is correct.

25 MR. LOCKARD: The government offers 971-79 and ask

HCB3ATI4

Korkmaz - Direct

1 that it be shown to the jury.

2 THE COURT: I'll allow it.

3 MR. HARRISON: Same objection.

4 (Government's Exhibit 971-79 received in evidence)

5 Q. Mr. Korkmaz, since we did have the break in between, can
6 you remind us on what date this is taken.

7 A. This is an image taken on 19th of April, 2013. If I may
8 explain something that I saw in the image.

9 Q. Okay.

10 A. So in this image and in other surveillance images, there
11 were times when the time or the date shown on the image may go
12 off a bit. And the individuals who are at the surveillance
13 would note this in the report as to what the actual date and
14 time the images were taken.

15 MR. HARRISON: Objection. Move to strike based on
16 hearsay, Judge.

17 THE COURT: Overruled.

18 Q. What date did you receive the video that contained this
19 image?

20 A. Same day.

21 Q. That day being April 19, 2013?

22 A. Yes.

23 Q. Can you tell us what's shown on the sign on the top of the
24 building in the mid- to right-hand area of the image.

25 A. It says European Union, but what it says afterwards I can't

HCB3ATI4

Korkmaz - Direct

1 read, maybe because of the resolution of this image here. But
2 it says European Union. But on the line below it, it does say
3 in English Ministry and Europe.

4 MR. LOCKARD: Mr. Chang-Frieden, if you can please
5 show Mr. Korkmaz Government's Exhibit 971-71.

6 Q. Mr. Korkmaz, do you recognize that image?

7 A. Yes.

8 Q. How is it that you recognize this image?

9 A. It is an image that was among the images that were
10 delivered to me by the technical physical surveillance team
11 that had obtained this image.

12 Q. Just to clarify, you've used the phrases "physical
13 surveillance" and "technical surveillance." Can you explain
14 the difference between those two things.

15 A. Certainly. The technical surveillance refers to images or
16 audio or images and audio being obtained from an individual
17 through use of technical devices. And this would be done in
18 public places, and it would exclude office and home
19 surveillance, inside the home surveillance. And it would be
20 pursuant to the Article 140 of the penal code of -- the penal
21 code, and it would be based on a court order each time. So,
22 and again, it would be outside of home.

23 And the physical surveillance, on the other hand,
24 does not require any court order, and it consists of the
25 officer following the target and making reports about what he

HCB3ATI4

Korkmaz - Direct

1 is observing without taking any imagery of the surveillance.

2 Q. I think you said what's shown before you as Government
3 Exhibit's 971-71 is from technical surveillance; is that
4 correct?

5 A. Yes.

6 Q. Do you recognize where that image was taken?

7 A. Yes.

8 Q. Where was it taken?

9 A. This is the rear entrance, exit door of the business plaza
10 where Orient Bazaar is located which is in Nuruosmaniye, and
11 this is where Mr. Reza Zarrab's company is located. It's the
12 entrance and exit.

13 Q. Do you recognize the individuals who are depicted?

14 A. Yes.

15 MR. LOCKARD: The government offers Exhibit 971-71 and
16 ask that it be published.

17 MR. HARRISON: I've objected on relevance a number of
18 times, but relevance is one of the grounds.

19 THE COURT: Okay. I'll admit it.

20 (Government's Exhibit 971-71 received in evidence)

21 Q. Mr. Korkmaz, when was this image taken?

22 A. I recall it to be September 13, 2013.

23 Q. Who are the individuals who are shown?

24 A. The one on right-hand side with the bag in his hand is
25 Ozgur Ozdemir. And the individual on the left in white

HCB3ATI4

Korkmaz - Direct

1 clothing is Husamettin Altinbas.

2 Q. Did you have an understanding from your investigation of
3 the purpose of Mr. Altinbas and Mr. Ozdemir's visit to the
4 Orient Bazaar on that day?

5 MR. HARRISON: Objection to opinion and calls for
6 hearsay, Judge.

7 THE COURT: Overruled.

8 A. Yes.

9 Q. On what types of evidence was your understanding based?

10 A. I'll say this for Ozgur Ozdemir, it was based on phone
11 conversations.

12 Q. In those conversations did Mr. Ozdemir say what his purpose
13 was?

14 MR. HARRISON: Objection.

15 THE COURT: Overruled.

16 A. I don't know and I don't recall whether he had mentioned it
17 in phone conversations on that day. But based on other phone
18 conversations, to the best of my recollection, he had come in
19 to receive a payment of about \$200,000.

20 Q. Based on those telephone conversations, did you have an
21 understanding of who that payment was intended for?

22 A. Yes.

23 MR. HARRISON: Objection to opinion and relevance,
24 Judge.

25 THE COURT: Overruled.

HCB3ATI4

Korkmaz - Direct

1 Q. Who was the \$200,000 payment intended for?

2 A. This payment and all other payments delivered through Ozgur
3 Ozdemir were payments being made to Muammer Guler through
4 Muammer Guler's son.

5 Q. Can you remind us at the time of the investigation, who was
6 Muammer Guler?

7 A. Muammer Guler was the Minister of Interior during that
8 time.

9 Q. What are the responsibilities of the Ministry of the
10 Interior in Turkey?

11 A. All the governorates that are within Turkey are under the
12 Ministry of Interior. The Turkish National Police is also
13 under the Ministry of Interior. And the Office of Vital
14 Records and Citizenship is also under the Ministry of Interior.

15 Q. When you say that the Turkish National Police is under the
16 Minister of the Interior, does that include the financial
17 crimes unit in Istanbul where you were working and conducting
18 this investigation?

19 A. Yes, we were staff of the Ministry of the Interior too.

20 MR. LOCKARD: Mr. Chang-Frieden, if you can please
21 show for Mr. Korkmaz Government Exhibit 970-14.

22 Q. Mr. Korkmaz, do you recognize that?

23 A. Yes.

24 Q. How do you recognize that?

25 A. This is a frame that was taken from the video obtained by

HCB3ATI4

Korkmaz - Direct

1 our teams on July 17 of 2013. And it is among the evidence
2 that was in our investigation.

3 Q. How soon after the surveillance date did you receive the
4 image that's shown in Government's Exhibit 970-14?

5 A. I recall that I saw it on that day. But I don't recall
6 whether the reports and the CD pertaining to this were also
7 submitted on the same day. It was my recollection that they
8 were provided a few days later, and I recall viewing it again
9 when those were turned in.

10 Q. Do you recognize the location shown in this image?

11 A. This is an area that I know really well.

12 Q. Do you recognize the individual who is shown in the image?

13 A. Yes.

14 Q. Who is the individual shown?

15 A. Ahmet Murat Ozis.

16 MR. LOCKARD: The government offers Government Exhibit
17 970-14.

18 MR. HARRISON: Same objection.

19 THE COURT: I'll allow it.

20 (Government's Exhibit 970-14 received in evidence)

21 Q. Mr. Korkmaz, you said that you recognize the location where
22 this image is?

23 A. Yes.

24 Q. Where is that?

25 A. This is in Fatih, Istanbul. And it and is within 50 to

HCB3ATI4

Korkmaz - Direct

1 70 meters of my old home. It is on the inside section of Vatan
2 Avenue, and it's in close proximity to my former home.

3 Q. What, if any, business is located in that area?

4 A. The provincial police station complex that also houses the
5 financial crimes unit where I worked is also located in this
6 area. It is approximately 200 to 250 meters from this
7 location.

8 Q. What business is located in the entrance that's shown in
9 this photograph or this image?

10 A. This is the entrance to the building that houses the Turgev
11 Foundation.

12 Q. Generally speaking, what is the Turgev Foundation?

13 A. I don't know what it stands for. But I believe it's
14 something to the effect of Turkey and youth, and the previous
15 acronym for it was Isgev, and Isgev, to the best of my
16 knowledge, was a foundation that was established by then-mayor
17 Mr. Recep Tayyip Erdogan in the '90s. In between 2010 and
18 2012, the name was changed to Turgev. And during that time,
19 Bilal Erdogan was the administrator for the foundation. That's
20 all I know about it.

21 Q. In July of 2013, what, if any, relationship between Turgev
22 and any of the individuals whose conduct was involved in your
23 investigation.

24 MR. HARRISON: Objection. Calls for speculation, your
25 Honor.

HCB3ATI4

Korkmaz - Direct

1 THE COURT: Overruled.

2 A. So, during the time frame after July, while the gold ban
3 was in effect, in terms of bringing back the method of gold
4 export again, Reza Zarrab had utilized this relation in order
5 to bring that method back with Mr. Suleyman Aslan.

6 Q. What, if any, affiliation was there between Turgev
7 Foundation and any of the individuals whose conduct was within
8 the scope of your investigation?

9 MR. HARRISON: Objection to form, relevance, calls for
10 speculation.

11 THE COURT: Overruled.

12 A. Excuse me but I did not understand your question fully.
13 Could you --

14 Q. I'll ask it a different way.

15 You said that Bilal Erdogan was the administrator of
16 the foundation in 2012?

17 A. Yes.

18 Q. Who was the administrator of the foundation in 2013?

19 A. Salih Koc.

20 Q. Based on your participation in the investigation, did you
21 have an understanding of the purpose of Mr. Ozis's visit to
22 Turgev in mid July of 2013?

23 MR. HARRISON: Objection. I'm waiting for the
24 interpreter to go before making my objection. I don't want to
25 talk over him.

HCB3ATI4

Korkmaz - Direct

1 THE COURT: That's a good idea.

2 MR. HARRISON: Objection to relevance and calls for
3 hearsay, your Honor, and speculation.

4 THE COURT: Overruled.

5 A. Yes.

6 Q. What kinds of evidence was your understanding about
7 Mr. Ozis's purpose was that based?

8 A. Based on phone conversations and based on additional
9 evidence that we were hoping to find based on the operation.

10 Q. Focusing on the intercepted telephone conversations that
11 you are aware of in July of 2013. What did those conversations
12 show about the purpose of Mr. Ozis's visit to Turgev?

13 MR. HARRISON: Objection, your Honor. Calls for
14 speculation, lack of foundation.

15 THE COURT: Overruled.

16 A. In 2014, excuse me, on July 14 of 2013, Zafer Caglayan and
17 Reza Zarrab held a meeting on an airplane in order to discuss
18 two matters. Based on other phone conversations, these two
19 matters were the money to be delivered to Turgev to be given to
20 Bilal Erdogan, and also the restart of gold trade in this time
21 frame, after July, while the gold ban was in effect.

22 Q. So how does that relate to Mr. Ozis's visit to Turgev?

23 MR. HARRISON: Same objection, your Honor.

24 THE COURT: Keep going. Overruled.

25 A. Reza --

HCB3ATI4

Korkmaz - Direct

1 MR. HARRISON: Before he answers, I'm going to object.

2 THE COURT: I thought you were going to wait for the
3 interpretation.

4 MR. HARRISON: I was going to wait until the
5 interpretation went to the witness first and then I was going
6 to object.

7 THE COURT: Okay.

8 MR. HARRISON: For the reasons I've objected before,
9 Judge, based on relevance and lack of foundation.

10 THE COURT: You can't have the whole potpourri of the
11 Federal Rules of Criminal Procedure. You've got to have
12 specific objections for each question. And what is your
13 specific objection to this question?

14 MR. HARRISON: I do have those for this question.

15 THE COURT: You do have which?

16 MR. HARRISON: Sure. In addition --

17 THE COURT: I mean, in addition to what? What is the
18 basis for the objection?

19 MR. HARRISON: I believe he's testified based on
20 recordings that we do not have.

21 THE COURT: Okay. Fair enough. So we're going to
22 take our lunch break. And we'll pick up -- it is about five to
23 1. We'll pick up at 2 o'clock. And we'll see you then.

24 (Jury excused)

25 (Continued on next page)

HCB3ATI4

1 THE COURT: If counsel could remain. Please be
2 seated. The others are welcome to stay if they'd like or not.

3 MR. LOCKARD: Should we excuse the witness, your
4 Honor?

5 THE COURT: Yes.

6 (Witness temporarily excused)

7 THE COURT: We're going to take a two-minute break and
8 then I will have something to discuss with you.

9 (Recess)

10 (In open court; jury not present)

11 THE COURT: As counsel is aware, and this is primarily
12 directed at the government. During one of the sidebars,
13 defense counsel have indicated their intention at the close of
14 the direct examination of this witness of moving for a mistrial
15 on several bases which include, one -- there may be more, but
16 these are the ones that I remember. The relevance of this
17 testimony to Mr. Atilla, and also, well, you've heard the other
18 complaints by defense counsel.

19 My principal concern has to do with the relationship
20 to Mr. Atilla's case and also knowing in a little bit more
21 detail where this information came from, literally, and
22 relatedly, where it was utilized.

23 So by that I mean, were these documents or photos,
24 this evidence, were they actually admitted in a Turkish
25 proceeding? And if so, does this witness know about that? And

HCB3ATI4

1 if there are tape recordings, the witness mentioned that there
2 were court orders secured in advance of wiretaps. We would
3 have to know a little bit more about that. And we'd have to
4 know a little bit more -- I'm not sure how significant this
5 is -- but how these materials wind up in this court. We should
6 hear a little bit more about that.

7 So, before we continue with further testimony, I think
8 that these issues need to be addressed through the witness. If
9 you need to or want to make a proffer before he resumes the
10 witness stand, that's fine. If not, we can just bring these
11 issues out before he continues his testimony.

12 MR. LOCKARD: Sure. And your Honor, you've
13 actually -- I don't think you're reading the outline of the
14 testimony, but that's exactly where we're headed next.

15 So, I think the witness has been describing the
16 investigation, and this is partly in response to certain
17 arguments that were made in opening statements about the nature
18 of this evidence and the nature of this witness.

19 The witness is going to go on to describe I think in
20 very short order how the investigation concluded, how he
21 obtained copies of the evidence that we've been talking about
22 and will continue to talk about, and this is laying the
23 groundwork for how it is that the investigation concluded the
24 way that it did and how it is --

25 THE COURT: This is the investigation in Turkey?

HCB3ATI4

1 MR. LOCKARD: That's correct, your Honor.

2 THE COURT: I would start, though, before we resume
3 testimony, with the positioning or the relevance of this
4 information to the case brought against Mr. Atilla.

5 MR. LOCKARD: Yes, your Honor. I think he sort of
6 broadly described how these payments relate to the Iranian oil
7 proceeds. And that's what we're going to focus in throughout
8 the rest of the testimony.

9 THE COURT: My other understanding is that when we
10 resume after the lunch break it will be with Mr. Cohen, is that
11 right? Is he on the premises so to speak?

12 MR. LOCKARD: I think he's not quite on the premises,
13 but we expect him to be on the premises within the hour.

14 THE COURT: Okay. All right. So, we'll see you at
15 2 o'clock.

16 (Luncheon Recess)

17 (Continued on next page)

HCBPATI5

Cohen - Cross

A F T E R N O O N S E S S I O N

2:08 P.M.

(In open court; jury present)

THE COURT: So be seated, everybody. We have
Mr. Cohen back to conclude his examination.

THE DEPUTY CLERK: Sir, before we continue, I'd like
to remind you that you're still under oath.

THE WITNESS: Thank you.

THE COURT: We will continue with the
cross-examination by Mr. Rocco.

MR. ROCCO: May I proceed, your Honor?

THE COURT: Yes.

DAVID COHEN,

called as a witness by the Government,

having been previously duly sworn, testified as follows:

CROSS-EXAMINATION RESUMED

BY MR. ROCCO:

Q. Mr. Cohen, good afternoon.

A. Good afternoon.

Q. Welcome back.

A. Thank you.

Q. So, Mr. Cohen, you met with representatives of the U.S.
Attorney's Office in preparation for your testimony in this
case; am I right?

A. That's correct.

HCBPATI5

Cohen - Cross

1 Q. And how often did you meet with them?

2 A. I would say about a half dozen times.

3 Q. And in that half-dozen times, where did you meet with them?

4 A. I met with them in Washington, D.C. and here in New York.

5 Q. Okay. And where, at your office in Washington, D.C.?

6 A. At the U.S. Attorney's Office in Washington.

7 Q. And at the U.S. Attorney's Office here in New York; am I
8 correct?

9 A. Correct.

10 Q. How long did these meetings take, on average?

11 A. The first couple of meetings were probably two hours long
12 or so, in that vicinity, one to two hours each one.

13 Q. I'm sorry, did you say there was a half-dozen meetings,
14 six?

15 A. That's about it, yes.

16 Q. And at those six meetings, you were shown documents?

17 A. I was.

18 Q. And the documents you were shown during those meetings,
19 include the documents that you have been shown here during your
20 testimony on direct examination?

21 A. Yes.

22 Q. And so when you were asked, had you reviewed those
23 documents, you were referring to the times that you reviewed
24 the documents with the prosecutors in connection with your
25 pretrial preparation; am I correct?

HCBPATI5

Cohen - Cross

1 A. I'm sorry, Mr. Rocco, when I was asked by whom?

2 Q. When you were on the stand and you were asked whether you
3 had reviewed the documents --

4 A. Right.

5 Q. -- you answered the question, as I recall, that you had?

6 A. Yes. Sorry, I didn't understand your question.

7 Q. I'm referring to the fact that you had -- are you saying
8 that you viewed those documents in preparation for your
9 testimony here?

10 A. Yes.

11 Q. Correct?

12 A. Yes; uh-huh.

13 Q. Now, it is correct, is it not, Mr. Cohen, that you and I
14 have never met before?

15 A. It is correct that I made the offer to meet with you twice
16 and you declined.

17 Q. You did, and I thank you for that opportunity. I wasn't
18 accusing of you of refusing to meet with me. That wasn't my
19 question. My question was, you and I had not met before,
20 right?

21 A. No, we had not. I had made myself available twice to meet
22 with you.

23 Q. Yes, I understand that.

24 THE COURT: We got it. The answer is no.

25 MR. ROCCO: I think we got it.

HCBPATI5

Cohen - Cross

1 THE COURT: Right?

2 MR. ROCCO: Yes, the answer is no.

3 BY MR. ROCCO:

4 Q. And I didn't have the opportunity to review with you
5 documents that --

6 A. You did have the opportunity. You didn't take it.

7 Q. Excuse me, if I may?

8 A. Yes.

9 Q. Let me finish the question, you can --

10 A. Sure.

11 Q. But you and I did not review documents before you
12 testified; is that correct?

13 A. That's correct.

14 Q. That was my only point. So now, when we broke last, we
15 were talking about Reza Zarrab. You testified, I believe, that
16 you had heard at some point that Mr. Zarrab was an important
17 gold trader --

18 THE COURT: Hold on one second. I think your client
19 is having trouble with the sound system.

20 THE INTERPRETER: Your Honor?

21 THE COURT: Do you need another one?

22 THE INTERPRETER: We need new batteries.

23 THE COURT: Oh, okay.

24 (Pause)

25 Okay.

HCBPATI5

Cohen - Cross

1 MR. ROCCO: Thank you, your Honor.

2 THE COURT: We're good.

3 BY MR. ROCCO:

4 Q. I believe you had testified that you had heard that
5 Mr. Zarrab was an important gold trader; am I correct?

6 A. That's right.

7 Q. And am I correct that you heard that sometime in or before
8 2013?

9 A. I think that is correct.

10 Q. And do you recall -- and you also testified to the fact
11 that you had discussed Mr. Zarrab at a meeting at Halkbank
12 sometime in the spring of 2013; am I correct?

13 A. That is my best recollection.

14 Q. And do you recall the date that you discussed -- had this
15 discussion with Mr. Atilla?

16 A. So I believe I only met with Halkbank once in the spring of
17 2013. I think it was the end of February of 2013; so it would
18 have been at that meeting.

19 Q. And that meeting took place in Istanbul?

20 A. Either in Istanbul or Ankara but I don't recall.

21 Q. In any event, it was in Turkey?

22 A. Yes.

23 Q. So can we bring up 3505-006 for Mr. Cohen. I think this is
24 a document that was shown to you on direct examination. I
25 would direct your attention to the date of the document, and

HCBPATI5

Cohen - Cross

1 then in the body of the document there's a date, and I'm going
2 to ask you if that date refreshes your recollection as to the
3 date that you met with Mr. Atilla or with representatives of
4 Halkbank?

5 A. This is the meeting I was referring to.

6 Q. Okay. And does it refresh your recollection that the
7 meeting occurred on February 28th, 2013?

8 A. My recollection is that it was in the early-ish spring of
9 2013; so it seems likely that's the right date.

10 Q. Close enough.

11 A. Yes.

12 Q. And that's -- by the way, that's a document that you were
13 shown on direct examination, if I recall?

14 A. I think that's right.

15 Q. And I think you said that that meeting looked like it
16 lasted more than your -- longer than your average meeting?

17 A. Yeah, my recollection is this meeting was at least an hour
18 long.

19 Q. And just take a moment, if you will, I know you recently
20 reviewed the document, but tell us, if you take a moment and
21 look at it, if there's anything in the document that refreshes
22 your recollection as to the substance of what was discussed in
23 your meeting regarding Mr. Zarrab?

24 (Pause)

25 A. Can we flip to the next page.

HCBPATI5

Cohen - Cross

1 Q. Sure. Please keep scrolling.

2 Does that document help contextualize your comments
3 about -- and what was discussed, if anything, about Mr. Zarrab
4 at that meeting?

5 A. So my recollection is in the course of this meeting, when
6 we were discussing gold trade with Iran and discussing the fact
7 that the July to come, or the July of 2013, that the sanctions
8 would change and it would be, at that point, sanctionable to
9 trade gold with Iran altogether.

10 And in the course of that conversation, I discussed
11 the fact that there had been a significant increase in the
12 amount of gold that was being exported from Turkey to Iran.
13 And I think in the course of that conversation is where the --
14 as best I recall, Mr. Zarrab came up in the course of that
15 conversation.

16 Q. And do you remember what was said about Mr. Zarrab, by
17 either you or Mr. Atilla, at that meeting?

18 A. So I don't recall whether I brought him up or whether
19 Mr. Atilla brought him up, but I think the substance of the
20 conversation was that there was a significant gold trader,
21 Mr. Zarrab, that, as was reflected in this document and as I
22 recall, that they had -- they, Halkbank, had in place the
23 mechanisms to ensure that that trade was, at that point,
24 permissible gold trade to private Iranian purchasers, not to
25 the government of Iran; and that one of the reasons that they

HCBPATI5

Cohen - Cross

1 were comfortable with that was that they knew Mr. Zarrab's
2 business and knew with whom he was trading.

3 Q. Okay. And do you recall anything else about Mr. Zarrab?
4 Did you, in that conversation, tell Mr. Atilla that Mr. Zarrab
5 was under investigation by any United States authorities?

6 A. I don't believe so.

7 Q. Did you tell Mr. Zarrab that Halkbank should not be dealing
8 with Mr. -- I'm sorry, Mr. Atilla, did you tell Mr. Atilla that
9 Halkbank shouldn't be dealing with Mr. Zarrab?

10 A. No.

11 Q. Did you tell Mr. Atilla in that meeting that Halkbank
12 should be careful of its dealings with Mr. Zarrab --

13 A. Yes.

14 Q. -- particularly? Particularly, did you say that about
15 Mr. Zarrab?

16 A. So I think as I testified last Friday, I don't recall the
17 precise words that I used, but the tenor of that conversation,
18 I'm sure, was that they needed to be careful of Mr. Zarrab, as
19 well as anyone else who they were -- who was a customer of
20 Halkbank who was selling gold to Iran.

21 Q. Let's move on. You say that you were in Istanbul on
22 December 17th, 2013; am I correct?

23 A. I believe that's the date.

24 Q. And that you had a scheduled meeting with Suleyman Aslan at
25 Halkbank; am I correct?

HCBPATI5

Cohen - Cross

1 A. I believe that's correct.

2 Q. And I think that you testified that Mr. Aslan was arrested
3 that day; am I correct?

4 A. Yes.

5 Q. And that because he was arrested and because you were stuck
6 in traffic, the meeting was canceled?

7 A. More the traffic. I mean, I don't recall actually if it
8 was the day before or the day of that I arrived that the arrest
9 occurred, but in any event, my planned meetings with Halkbank,
10 as well as I think others in the Turkish private sector, were
11 canceled because I was stuck in traffic getting in from the
12 airport.

13 Q. And do you remember when you learned that Mr. Aslan was
14 arrested?

15 A. Not precisely.

16 Q. And do you remember what he was arrested for?

17 A. I remember he was arrested as part of a corruption sweep,
18 essentially, that occurred and that he was arrested at home
19 with at least the reports that I read, public media reports,
20 where he was arrested at home with shoeboxes full of cash.

21 Q. And were these reports that you were reading at or about
22 the time that Mr. Aslan had been arrested?

23 A. Yes.

24 Q. Did you learn that Mr. Zarrab had been arrested with
25 Mr. Aslan?

HCBPATI5

Cohen - Cross

1 A. I believe so.

2 Q. Did you learn that at the time that you learned of
3 Mr. Aslan's arrest, or did you learn that subsequently?

4 A. I believe I learned it at the same time, although, my -- I
5 was more focused on Mr. Aslan than Mr. Zarrab because that was
6 with whom I was planning to meet.

7 Q. Did you discuss with anyone at Treasury Mr. Aslan's arrest?

8 A. I'm sure I did.

9 Q. Do you have a recollection of who that was with?

10 A. I don't precisely. The folks who were traveling with me,
11 I'm sure I talked to them about it. I think one of my senior
12 advisors was with me.

13 Q. So it's fair to say that you learned of the arrests while
14 you were still abroad, while you were still in Turkey?

15 A. Yeah, I actually don't know if I learned about the arrests
16 before I arrived in Turkey or after I arrived in Turkey, but I
17 was definitely abroad when I learned of it.

18 Q. Subsequent to the arrest -- or learning of the fact that
19 Mr. Aslan was arrested, in the days or weeks that follow, were
20 you or, to the best of your knowledge, anybody at Treasury, in
21 touch with Halkbank to find out what had happened?

22 A. I was not, and I imagine others at Treasury were, but I was
23 not.

24 Q. You imagine?

25 A. I don't know for sure.

HCBPATI5

Cohen - Cross

1 Q. Okay. And do you have a recollection of ever discussing it
2 with anyone?

3 A. Discussing why Mr. Aslan was arrested?

4 Q. No. Just the fact of the arrest and contacting Halkbank as
5 a result of the arrest. And I'm limiting my time period here
6 to the immediate aftermath of the arrest, within a couple of
7 weeks or a month or so.

8 A. Yeah, my recollection, Mr. Rocco, because my trip to Turkey
9 was aborted, and I didn't get to do the meetings that I was
10 planning to do, that early in the next year we had tried to
11 essentially reschedule the trip to Turkey. And one of the
12 things that I wanted to do on that trip was to meet with the
13 new CEO of Halkbank. So I know there was communications that I
14 had with my staff and with the embassy in Ankara to tie to set
15 that up. So in that context, I think there were conversations
16 about Mr. Aslan's arrest and who was succeeding him at
17 Halkbank.

18 Q. To the best of your recollection, when were you next in
19 touch with anyone at Halkbank?

20 A. I don't believe that I was next in touch with anyone at
21 Halkbank -- that was December '13 -- until the fall of '14.

22 Q. And in the fall of '14 you had a meeting with the new
23 general manager?

24 A. Correct.

25 Q. Am I correct? And this was at your office here in DC,

HCBPATI5

Cohen - Cross

1 correct?

2 A. That's right.

3 Q. And with the new general manager was Mr. Atilla; am I
4 correct?

5 A. No, the new general manager --

6 Q. No, with the new general manager.

7 A. Yes. Was Mr. Atilla? Yes.

8 Q. And Mr. Atilla, if I recall your direct examination, served
9 as an interpreter; am I correct, or at least helped
10 translate --

11 A. Right.

12 Q. -- some conversation with the new general manager?

13 A. Right. A portion of that meeting, where I was trying to
14 converse with the new general manager, Mr. Atilla served as his
15 translator.

16 Q. I'm going to ask to bring up Defendant's Exhibit 212, and
17 I'm going to ask you to look at that document, read it to
18 yourself, if you will, Mr. Cohen.

19 A. Mmm, hmm.

20 (Pause)

21 Q. Tell us when you want us to scroll to the second page.
22 It's up.

23 A. Yes, thank you.

24 (Pause)

25 Okay.

HCBPATI5

Cohen - Cross

1 Q. And can you tell us what that document is?

2 A. That's an e-mail summary prepared by someone on my staff of
3 my meeting with Mr. Atilla and the new general manager and a
4 third person from Halk.

5 Q. Have you reviewed that document before?

6 A. I have.

7 Q. Is that document accurate? Does it accurately reflect what
8 happened at that meeting?

9 A. It's consistent with my recollection.

10 MR. ROCCO: Your Honor, I move Defendant's Exhibit 212
11 in evidence.

12 THE COURT: Sure.

13 (Defendant's Exhibit 212 received in evidence)

14 BY MR. ROCCO:

15 Q. Now, let's talk about the document, if we can, and go
16 through it with the jury.

17 MR. ROCCO: Can we bring it up for the jury.
18 Mr. White?

19 THE COURT: How about making it a little bigger?

20 MR. ROCCO: I have my glasses on.

21 THE COURT: I'm at that age, Mr. Rocco, do you know
22 what I mean?

23 MR. ROCCO: Indeed, I do, your Honor.

24 THE COURT: Can we get it bigger?

25 MR. ROCCO: Oh, to be young, Mr. White. You can't do

HCBPATI5

Cohen - Cross

1 better than that?

2 THE COURT: I was going to say that.

3 MR. WHITE: Is there a certain paragraph you want to
4 read?

5 MR. ROCCO: Sure. Let's go down to the last paragraph
6 on the page. That makes it easier. Excellent.

7 BY MR. ROCCO:

8 Q. So now directing your attention to what, in effect, is the
9 last paragraph on that page, starting U/S Cohen?

10 A. Yes.

11 Q. It says that you noted that Mr. Zarrab transacted
12 essentially business through Halkbank, and in the first line
13 there's a reference to Mr. Zarrab having been accused of
14 leading efforts to evade sanctions on Iran; am I correct?

15 A. That's what it says.

16 Q. And can you tell me, is that what you said during that
17 meeting?

18 A. So just to be clear, I didn't write this document. It was
19 written by Michael Lieberman, who worked for me, and so far as
20 I know, I never edit -- I didn't edit it or review it before he
21 sent it out. I don't have any doubt that I said something
22 along those lines, but I don't know that I said precisely that.
23 So I just want to be precise.

24 Q. Okay. So give me sum and substance of what you recall
25 say --

HCBPATI5

Cohen - Cross

1 A. So -- I'm sorry.

2 Q. Perhaps I can make it a little easier, at least try to make
3 it a little easier. Do you recall if, during the meeting --
4 does this refresh your recollection as to who brought up
5 Mr. Zarrab? It would appear that you did --

6 A. Yeah.

7 Q. -- because it says "U/S Cohen noted that Iranian national"?

8 A. Right; so my recollection is I brought up Zarrab. I don't
9 know that I -- precisely how I phrased it. Although, I'm not
10 going to dispute the way that Mr. Lieberman described it here,
11 but I brought up Mr. Zarrab, expressed concern that he had been
12 accused of being -- violating the Iran sanctions, that he had
13 done so through Halkbank.

14 And I was interested in learning from Mr. Atilla and
15 from the new general manager whatever they were prepared to
16 share with me about Mr. Zarrab's activity.

17 Q. What I want to direct your attention to is the word
18 "accused." Because, can you tell me, at that point, who had
19 accused Mr. Zarrab of efforts to evade sanctions?

20 A. I don't know anyone who had accused him at that point.

21 Q. And do you recall whether you said that or not?

22 A. I suspect I did not use the word "accused."

23 Q. And it's fair to say that, to your knowledge, as of the
24 date of this meeting, Mr. Zarrab had not been charged with
25 evading sanctions by any -- at least here in the United States;

HCBPATI5

Cohen - Cross

1 am I correct?

2 A. I think that's correct.

3 Q. And certainly, he hadn't been charged in this case; am I
4 correct?

5 A. Yes, I believe that's right.

6 Q. And I think it would be a little bit unorthodox for Turkey
7 to charge him with your sanctions, correct?

8 A. I don't know whether Turkey would --

9 Q. I'll ask the correct question differently.

10 To your knowledge, at that point, had Turkey charged
11 Mr. Zarrab with violating your sanctions?

12 A. I don't know. I don't think so. You know, I think he had
13 been accused in Turkey of some -- or at least investigated in
14 Turkey related to the corruption investigation. I don't know
15 if he had been formally charged, and I don't know what the
16 charges were, if there were.

17 Q. So it's fair to say that this memorandum is inaccurate, at
18 least in terms of recounting whether Mr. Zarrab had been
19 accused of leading efforts to evade sanctions?

20 A. I think Mr. Lieberman might have been referring to press
21 reports about Mr. Zarrab and using the word "accused" a little
22 loosely there, but as a matter of U.S. accusations, U.S.
23 charges, I think it's correct that he had not been charged with
24 a crime here in the United States.

25 Q. Okay. Thank you. Let's go on.

HCBPATI5

Cohen - Cross

1 And you used the phrase "facilitated trade for
2 Halkbank." Can you tell us what you meant by that term
3 "facilitated trade"?

4 A. I don't see that, Mr. Rocco.

5 Q. You have to go back.

6 Mr. White, can we go back to the earlier. I got it.
7 Do you see at the end -- it's the following page. I'm sorry.
8 I got ahead of myself.

9 A. I believe that is recounting what -- I'm sorry to make you
10 do this, but I think the sentence is recounting what Halkbank
11 representatives said to me. If you wouldn't mind going back to
12 the preceding page. It says: Atilla responded that Zarrab
13 received a loan from Halk to finance the acquisition and
14 redesign of a building in tourist district, as well as
15 financing loan to lease a plane, Halk also dealt with Zarrab to
16 facilitate foreign trade.

17 Q. Well, it's not clear to me. Perhaps it's clear to you.
18 The words "Halk also dealt with Zarrab to facilitate foreign
19 trade," you're saying that's something Mr. Atilla said, to the
20 best of your recollection, correct?

21 A. Yes.

22 Q. What did you understand Mr. Atilla to be saying in that
23 regard?

24 A. That Halk had been the trade finance bank, essentially, for
25 Zarrab in his export business to Iran, and I'm sure we were

HCBPATI5

Cohen - Cross

1 talking about gold at this point.

2 Q. That was going to be my next question; so thank you. And
3 you think that this discussion is in the context of gold trade;
4 am I correct?

5 A. I believe so.

6 Q. Okay. And the memo goes on to say that -- I'm sorry, you
7 asked earlier whether Halkbank continued to deal with
8 Mr. Zarrab, and in response Mr. Atilla told you, in the
9 following respects; am I correct? And that includes a loan, a
10 financing loan, and it also included dealing with Mr. Zarrab to
11 facilitate foreign trade. And you're saying that the foreign
12 trade, as you recall it, referred to gold trade?

13 A. Correct.

14 Q. And did you have -- was there any discussion about the
15 volume of gold trade at that point?

16 A. Not that I recall.

17 Q. Now, the conversation goes on to say: "Mr. Atilla noted
18 that Zarrab was not on the U.S. Specially Designated Nationals
19 List," and what was that in response to? Was that something --
20 that wasn't something that Mr. Atilla volunteered, is it?

21 A. Yes, it is, as I recall.

22 Q. It is? There was nothing in the conversation to that
23 point, to the best of your recollection, that suggested that
24 Halkbank should not be dealing with Mr. Zarrab?

25 A. So as I recall the conversation, and this is a summary of

HCBPATI5

Cohen - Cross

1 the conversation, I raised the question of Zarrab and what
2 Halkbank's business was with Zarrab. Mr. Atilla explained that
3 they had this loan for the building, for the airplane, and as
4 well as facilitating foreign trade.

5 And then Mr. Atilla said that Zarrab's not on the
6 Specially Designated Nationals List. That's the list of people
7 who have been sanctioned by the Treasury Department. And as I
8 recall in the conversation, said essentially, what do you want
9 us to do; you haven't imposed sanctions on him, so how can we
10 not do business with him? So that was the -- as I recall, what
11 the conversation essentially centered around.

12 Q. And your response -- well, was it your understanding that
13 Mr. Atilla was asking you to add Mr. Zarrab to the Specially
14 Designated Persons List? Because in the earlier -- in the
15 immediately preceding unredacted sentence --

16 A. Mmm, hmm.

17 Q. -- it seems Mr. Atilla says: "And that, as a result, there
18 was not much that Halk could do"?

19 A. Right.

20 Q. So was he, in that conversation, asking you to add
21 Mr. Zarrab to the Specially Designated Nationals List?

22 A. That's not how I understood it. I think what I understood
23 was that he was saying he's not on the Specially Designated
24 Nationals List. If he were on that list, that's the list of
25 people who have been sanctioned, they would not have done

HCBPATI5

Cohen - Cross

1 business with him.

2 But what I took from this was that Mr. Atilla's tune
3 had changed with respect to Mr. Zarrab, which was to say, gee,
4 if you have designated Zarrab, then we wouldn't do business
5 with him, but otherwise, there's nothing we can do. Whereas,
6 in my previous meetings with Mr. Atilla, he had said, we
7 understand U.S. sanctions. We intend to comply with U.S.
8 sanctions, and we will not allow anyone, including Mr. Zarrab,
9 who's violating U.S. sanctions to make use of Halkbank's
10 facilitation of trade.

11 Q. Well, at this point, Mr. Zarrab was under investigation by
12 the United States; am I correct? This is October 2014.

13 A. By the Treasury Department or by the Justice Department?

14 Q. By --

15 A. I have no --

16 Q. We'll start with the Treasury Department?

17 A. I assume so; although, I don't have a specific recollection
18 that he was. But I can't imagine that he wouldn't have been.

19 Q. I'm sorry, and I don't want to put words in your mouth, but
20 do you recall testifying on direct that as early as 2013, your
21 meeting with Halkbank in February of 2013, that you thought
22 Mr. Zarrab was under investigation at that point?

23 A. I don't think that's what I testified.

24 Q. So tell me --

25 A. Yeah.

HCBPATI5

Cohen - Cross

1 Q. -- do you recall him being under investigation at the time
2 that you met with Halkbank in February of 2013?

3 A. So I don't -- I don't specifically know, and I don't know
4 whether he was under investigation in the sense that OFAC would
5 have opened a formal case with respect to Mr. Zarrab. It seems
6 likely that Mr. Zarrab was a significant enough player in the
7 gold trade with Iran that, at that point, someone in OFAC, I
8 imagine, was focused on Mr. Zarrab. Whether that constituted a
9 formal investigation or not, I just don't know. And, likewise,
10 by -- this meeting was in October of '14.

11 Q. October 2014?

12 A. Yeah, by October 2014, as I said, I can't imagine that he
13 wasn't under investigation. I was not, you know, monitoring
14 OFAC's investigations.

15 Q. Well, let's go back. Let's go to the next sentence in the
16 memorandum: "U/S Cohen noted, however, that Treasury did need
17 to investigate Zarrab's activities." Do you remember saying
18 that?

19 A. I think the whole purpose of this line of inquiry in this
20 meeting was we were interested in learning more about
21 Mr. Zarrab --

22 Q. Excuse me, Mr. Cohen. Sorry. My question was, do you
23 recall saying that Treasury did need to investigate Zarrab's
24 activities, yes or no?

25 A. So I don't recall saying that verbatim, Mr. Rocco. I think

HCBPATI5

Cohen - Cross

1 what I told Mr. Atilla and his new general manager was that we
2 needed to learn as much as we could about Mr. Zarrab. Whether
3 I used the word "investigate" or not, I don't know. I doubt it
4 because my job wasn't to be an investigator.

5 Q. And, again, this is a memo that you say was written by Mike
6 Lieberman; am I correct?

7 A. Yes.

8 Q. It's a memo that you didn't review at the time; am I
9 correct?

10 A. That's correct.

11 Q. And you're saying that the memo is inaccurate?

12 A. No.

13 Q. Imprecise?

14 A. I'm saying it's a summary of the conversation.

15 Q. Okay. And to the extent that -- you don't have any
16 recollection of saying that Treasury needed to investigate
17 Mr. Zarrab's activities, in those words; am I correct?

18 A. I don't have a recollection saying those precise words,
19 that's correct.

20 Q. And you also -- again, in this summary of conversation,
21 says that you asked Halk if it could provide any information;
22 am I correct?

23 A. Yes, I'm sure I did.

24 Q. Do you recall making that request?

25 A. Yes.

HCBPATI5

Cohen - Cross

1 Q. Do you recall that, saying that, asking if Halk could
2 provide you with any information; am I correct?

3 A. Yes.

4 Q. And the response you got from that is that, apparently -- I
5 won't even try to pronounce the name, Taskinoglu -- I'll call
6 him "Mr. T" -- Mr. T replied that Turkish regulations prevent
7 such information sharing, especially in these days. Do you
8 recall Mr. T saying that to you?

9 A. In substance, yes.

10 Q. Yes. And did the Treasury Department ever follow up and
11 request any information from Halkbank about Reza Zarrab?

12 A. I don't know.

13 Q. So is it fair to say, to your knowledge, it did not?

14 A. I don't -- again, I don't have personal knowledge of that.
15 I just don't know.

16 Q. Do you have a recollection that during this discussion with
17 the new general manager of the bank and Mr. Atilla, having a
18 discussion about ISIS?

19 MR. LOCKARD: Objection.

20 THE COURT: I'll allow it, if you remember.

21 A. I suspect we did, yeah.

22 Q. You expect we did?

23 A. Yeah.

24 Q. But that's not reflected in the memorandum, correct?

25 A. So there's aspects of this memorandum that are redacted.

HCBPATI5

Cohen - Cross

1 Q. That's true. Can you tell us why the portions of the
2 memorandum were redacted?

3 MR. LOCKARD: Objection, your Honor.

4 THE COURT: Sustained.

5 MR. ROCCO: I asked him why he --

6 THE COURT: Sustained.

7 MR. ROCCO: Thank you.

8 BY MR. ROCCO:

9 Q. You testified last week about your standard presentation.
10 You referred to something --

11 A. I'm sorry, I missed that. My what presentation?

12 Q. Your standard presentation.

13 A. Standard. Yes, I'm with you. Thank you.

14 Q. And can you tell us what your standard presentation was?
15 Was it a document? Was it a power point? You're shaking your
16 head. The reporter needs --

17 A. I'm waiting for you to finish your question.

18 Q. A first. Was it a written statement?

19 A. No.

20 Q. Was it a power point presentation?

21 A. No.

22 Q. Was it ever committed to writing?

23 A. Not in -- not something that's labeled David Cohen's
24 standard presentation. I had talking points that were prepared
25 for these various meetings that would sort of lay out, usually,

HCBPATI5

Cohen - Cross

1 the -- in specifics what I was going to cover. They were
2 sometimes followed, sometimes not, and there may have been some
3 reference to sort of my general schpeel in those talking
4 points, but I didn't have a document that I handed over.

5 Q. You used the word, and I'm sorry if I'm misquoting you,
6 these presentations or these situations, what do you mean by
7 that?

8 A. Meetings with foreign banks or foreign regulators or
9 foreign government officials.

10 Q. So essentially it was a template of something that you
11 would use for your remarks when you met with foreign --
12 representatives of foreign banks?

13 A. Right.

14 Q. And that would change from time to time because the
15 sanctions changed from time to time; am I correct?

16 A. Some of the details of the sanctions changed from time to
17 time. The sort of the foundation of them didn't.

18 Q. Okay. So, to your knowledge, did you or anyone from
19 Treasury ever tell Halkbank to stop trading gold?

20 A. To outright stop trading gold?

21 Q. To outright stop trading gold.

22 A. With Iran?

23 Q. To outright stop trading gold.

24 A. I think we certainly told them that, post July 2013, that
25 any sale of gold to Iran, to anybody in Iran, was potentially

HCBPATI5

Cohen - Cross

1 sanctionable.

2 Q. But prior to July 2013, there were private sales that were
3 allowed; am I correct?

4 A. Correct.

5 Q. As long -- as of February of 2013, Halkbank abided with the
6 bilateral trade restrictions; am I correct?

7 A. That is correct.

8 Q. And, in fact, up until July 1st of 2017 -- 2013, no one had
9 told Halkbank that it could not intermediate gold transactions
10 for anyone, correct?

11 A. That's -- I did not tell them that they could not do that.

12 Q. Did you or anyone from Treasury, to your knowledge, ever
13 tell anyone at Halkbank, specifically Mr. Atilla, to stop
14 trading food or medicine?

15 A. No.

16 Q. Did anybody from Treasury -- did you or anyone from
17 Treasury ever tell Mr. Atilla or Halkbank to stop dealing with
18 Reza Zarrab?

19 A. No.

20 Q. Did you or anyone from Treasury, to your knowledge, ever
21 tell Mr. Atilla about Al Nafees Exchange?

22 A. I don't -- I think as we talked about last Friday, I don't
23 have a particularly crisp recollection of the discussions about
24 Al Nafees Exchange. So I would refer back to my testimony
25 there.

HCBPATI5

Cohen - Redirect

1 I just don't remember exactly what we talked about
2 with Al Nafees Exchange, but I can't imagine -- well, I don't
3 know whether Al Nafees Exchange was designated. If it were
4 designated, then I think we probably would told them not to
5 deal with Al Nafees Exchange.

6 Q. And if it hadn't been designated, you would not?

7 A. No.

8 MR. ROCCO: Your Honor, no further questions.

9 THE COURT: Any redirect?

10 MR. LOCKARD: Yes, your Honor.

11 THE COURT: Okay.

12 REDIRECT EXAMINATION

13 BY MR. LOCKARD:

14 Q. Good afternoon, Mr. Cohen.

15 A. Good afternoon.

16 Q. So Mr. Rocco ended his cross-examination by asking you some
17 questions about what you had or had not told Halkbank. Do you
18 recall him asking you if you, or anyone from Treasury, had told
19 Halkbank not to deal with Reza Zarrab?

20 A. Yes.

21 Q. And whether you or anyone from Treasury had told Halkbank
22 not to intermediate gold transactions?

23 A. Yes.

24 Q. Is the United States Treasury Department a compliance unit
25 for Halkbank?

HCBPATI5

Cohen - Redirect

1 A. No.

2 Q. I'd like to turn to Defense Exhibit 201, which you looked
3 at yesterday. If we could go to, I believe, page 3 of that
4 exhibit. So Mr. Rocco had asked you about a statement in this
5 article about the extraterritorial affect of sanctions?

6 A. Yes.

7 Q. Now, remind us, what was the context of these statements?

8 A. I think this was an interview that was conducted by a Wall
9 Street Journal reporter.

10 Q. Was Mr. Atilla present at that interview?

11 A. No.

12 Q. So when you're talking about the extraterritorial affect of
13 U.S. sanctions, in what context is that statement made?

14 MR. ROCCO: Your Honor, I'm going to object in light
15 of what occurred this morning.

16 THE COURT: It's redirect.

17 MR. ROCCO: I understand. Only in light of your
18 Honor's direction.

19 MR. LOCKARD: It was raised.

20 THE COURT: It's redirect.

21 THE WITNESS: I'm sorry, can you ask the question
22 again.

23 BY MR. LOCKARD:

24 Q. In what context -- in what sanctions context was the
25 question of extraterritoriality raised?

HCBPATI5

Cohen - Redirect

1 A. So my recollection is that this was a -- the question that
2 I was responding to here, or the one just before it, had to do
3 with these significant criminal and civil actions that had been
4 taken by Treasury and by bank regulators and by the Justice
5 Department against foreign banks for violating U.S. sanctions.

6 One of the critiques was -- and so one of the
7 critiques was we were exercising extraterritorial jurisdiction.
8 My point was that the banks that were involved in these
9 settlements had transacted through the United States and had
10 effected the United States, and that the actions that we were
11 taking, as a result, were not extraterritorial. I think that
12 is what I was referring to here.

13 Q. And is the answer specifically in response to a question
14 regarding blocking transactions?

15 A. Yes.

16 Q. And can you describe what blocking is?

17 A. So blocking is the technical term that applies to when an
18 entity is sanctioned, is designated. The assets of that person
19 or entity are blocked, which means that they can't be
20 withdrawn, they can't be traded. And so if a person had a bank
21 account in the United States and their assets were blocked,
22 those assets are frozen, no U.S. person can engage in any
23 business involving that person or that person's assets.

24 Q. Can blocking ever take place outside the United States?

25 A. Not outside of a U.S. institution.

HCBPATI5

Cohen - Redirect

1 Q. So a U.S. institution acting outside the United States can
2 block a transaction?

3 A. In certain contexts, yes.

4 Q. Are there other sanctions, penalties and remedies besides
5 blocking?

6 A. Yes.

7 Q. Do any of those penalties and remedies focus on conduct
8 outside the United States?

9 A. Yes.

10 Q. And do they focus on entities and persons outside the
11 United States?

12 A. Yes.

13 Q. And is sanctioning one of those remedies?

14 A. Yes.

15 Q. Can a sanction have a significant impact on a foreign
16 entity or individual?

17 A. Yes.

18 Q. If we can turn to the next page of Defense Exhibit 201.

19 Mr. Chang-Frieden, if you can bring up first the
20 second paragraph on that page.

21 In this article, did you describe being sanctioned as
22 possibly a mortal wound?

23 A. Apparently so.

24 Q. Is that something that's true even if the entity is not in
25 the United States and is engaging in transactions that are not

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1 in the United States?

2 A. Yes.

3 Q. If we could look at Defense Exhibit 200.

4 So this is another -- I suppose this is an article
5 that Mr. Rocco asked you about yesterday?

6 A. It's an interview.

7 MR. ROCCO: Friday.

8 MR. LOCKARD: On Friday. I'm sorry. It feels like
9 yesterday.

10 THE COURT: Not to me.

11 MR. LOCKARD: Every day feels like yesterday right
12 now.

13 BY MR. LOCKARD:

14 Q. If we could turn to page 7 -- actually, I'm sorry. If we
15 could turn to page 9.

16 So is this a discussion about the Treasury
17 Department's sanctioning authorities, and specifically focusing
18 on the paragraph that says: "Now, what we have been doing"?

19 A. Yeah, just give me one second.

20 (Pause)

21 Right. This was -- at this point, we were discussing
22 the serious sanctions.

23 Q. And are the serious sanctions a secondary sanction, a
24 primary sanction, or both?

25 A. I think principally primary sanctions. I actually don't

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1 recall as I sit here. I don't believe we had secondary
2 sanctions in this series context.

3 Q. If you look at the clause of the first sentence, where you
4 describe certain actions that have been taken under those
5 authorities?

6 A. Yes.

7 Q. You're talking about close to 50 entities and individuals
8 being designated under the new authorities?

9 A. Yes.

10 Q. Do you recall whether those entities or individuals were
11 principally U.S. based or principally foreign?

12 A. I suspect every one of them was foreign, and those would
13 have been primary sanctions designations.

14 Q. And, Mr. Chang-Frieden, if we can look at the
15 second-to-last paragraph on this page.

16 All right. Here, you have a reference to the Lebanese
17 Canadian Bank action?

18 A. Yes.

19 Q. Is that something that you're somewhat familiar with?

20 A. I am.

21 Q. And is the Lebanese Canadian Bank a U.S. bank or a foreign
22 bank?

23 A. It's a foreign bank.

24 Q. And did Treasury take certain actions targeting Lebanese
25 Canadian Bank?

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1 A. We did.

2 Q. And what did Treasury do?

3 A. I think we exercised a different authority under section
4 311, under the Patriot Act, to essentially cut off Lebanese
5 Canadian Bank in the U.S.

6 Q. And were there other U.S. agencies also involved in actions
7 against the Lebanese Canadian Bank?

8 A. Yes, I believe the Justice Department was also involved in
9 that.

10 Q. And is it your understanding that the Justice Department
11 action had the same basis or a different basis than the
12 Treasury's action?

13 A. Different.

14 Q. And do you have an understanding of whether
15 extraterritorial jurisdiction principles that apply to Treasury
16 apply to actions by other U.S. agencies?

17 A. I think there are different principles that apply.

18 Q. Now, Mr. Rocco also asked about some Congressional
19 testimony that you had given. I believe it's Defense Exhibit
20 229.

21 If we could turn to page 41 of that record. Maybe
22 numerical page 41.

23 And there was a question about whether Turkey was
24 paying Iran for natural gas using gold?

25 A. Right.

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1 Q. So first, as a clarifying question, were there distinctions
2 between the way sanctions applied to natural gas sales versus
3 oil sales?

4 A. There were at one point in time.

5 Q. And we had talked about your letter to Halkbank in December
6 of 2012, about public statements that had been made by Turkish
7 government officials, about buying oil with gold; do you recall
8 that?

9 A. Yes.

10 Q. Is buying oil with gold a different issue than buying
11 natural gas with gold?

12 A. Yes, it's different. I mean, natural gas is different than
13 oil. As I recall, at one point, mostly because of a drafting
14 error in the legislation, natural gas and oil were treated
15 differently. That got fixed at some point in the legislation.
16 I don't recall exactly when natural gas and oil ended up being
17 treated the same, but there was a point in time when they were
18 treated differently.

19 Q. At this time, when you're talking about buying either
20 natural gas or oil from Iran, when we're talking about Turkey
21 buying natural gas or oil from Iran, what is the bank that we
22 would be talking about?

23 A. Halkbank.

24 Q. And to what extent would your statements to Congress about
25 how Halkbank is paying for natural gas or oil, to what extent

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1 would that be based on representations from Halkbank?

2 A. To some extent.

3 Q. Would your statements to Congress in 2013 have been based
4 on any of the evidence that has been introduced at this trial?

5 MR. ROCCO: Objection.

6 A. I can't possibly answer that question.

7 MR. ROCCO: Thank you.

8 Q. Do you have any idea what evidence has been introduced at
9 this trial?

10 A. I don't.

11 Q. If we could turn now to Defense Exhibit 211. So this is a
12 summary of a November 2012 phone call with Mr. Aslan, the
13 then-general manager of Halkbank; is that right?

14 A. Yes.

15 Q. Now, Mr. Rocco had asked you about a reference in the first
16 paragraph to Halkbank's significant efforts to comply with
17 international sanctions, towards the bottom of that paragraph?

18 A. Yes.

19 Q. At that time, what had Halkbank told you about the
20 significance of its efforts to comply with international
21 sanctions?

22 A. I think, as I testified, at every occasion where I spoke
23 with, met with or had communications from Halkbank, I was
24 assured that Halkbank was making significant efforts to comply
25 with international sanctions and with our sanctions, in

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1 particular.

2 We had, you know, at these various meetings that I
3 testified about, had relatively lengthy conversations where
4 Halkbank would describe both their commitment to complying with
5 the sanctions and the ways in which they would go about
6 ensuring that they could. And so that was sort of the basis
7 for my belief that Halk was making significant efforts to
8 comply.

9 Q. And in your discussions with Halkbank, let's take gold
10 exports specifically, did Mr. Atilla ask you questions relating
11 to guidance about gold exports to Iran?

12 A. That's my recollection, yes.

13 Q. Did Mr. Atilla ask you questions for guidance about
14 financing gold exports to Iranian banks?

15 A. I don't recall the distinction between Iranian banks versus
16 others in the Iranian private sector versus the Iranian
17 government. I don't recall Iranian banks coming up
18 specifically in the gold trade context.

19 Q. And at the time, to you, as the Undersecretary for the
20 Office of Terror Finance and Intelligence, would it have made a
21 difference if the gold exports had been to Iranian banks as
22 opposed to Iranian jewelers?

23 A. It would have -- it would have piqued my interest, because
24 if the purchaser -- I think we talked about this on direct. If
25 the purchaser was the bank, rather than the bank being the

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1 intermediary for the jeweler being the purchaser, but if the
2 purchaser were actually the bank, I would be concerned because
3 of what I knew about the Iranian banking sector and how closely
4 it was tied to the government of Iran.

5 MR. LOCKARD: Your Honor, if I may approach?

6 THE COURT: Yes.

7 Q. I'm going to hand you what has been marked as Government's
8 Exhibit 701 and 702.

9 A. Thank you.

10 Q. And these are marked only for identification.

11 (Pause)

12 Do you recognize those?

13 A. I do.

14 Q. Okay. So let's start with 7031.

15 A. Okay.

16 Q. Now, on Friday Mr. Rocco had asked you some questions about
17 which sanctions were authorized under which statute?

18 A. Yes.

19 Q. So I want to start by asking you about the July 2012
20 executive order that we had talked about during your direct,
21 13622. Do you recall what that order did with respect to
22 sanctions and gold transactions?

23 A. Yes, I do.

24 Q. And at a very basic level, what did that July 2012 order
25 do?

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1 A. It made sanctionable any sales of precious metals, which I
2 think in the definition section, I think probably includes --
3 certainly it includes gold, to the government of Iran or any
4 entity working on its behalf.

5 Q. And is that order promulgated pursuant to the authority of
6 the International Emergency Economic Powers Act?

7 A. Yes.

8 Q. Now, we talked about how the gold sanctions changed between
9 this 2012 order and enactment of the Iran Freedom and
10 Counter-Proliferation Act, the IFCA?

11 A. Yes.

12 Q. And when did the IFCA come about?

13 A. As I recall, it was enacted on January 2nd and became
14 effective July 1st, 2013.

15 Q. And what is the difference between the gold sanctions in
16 the July 2012 order and the IFCA passed in January of 2013?

17 A. That expanded the prohibition on -- the prohibition on the
18 sale of gold, and it made sanctionable the sale of gold to
19 anybody in Iran, not just the government of Iran, or those
20 working on its behalf.

21 Q. And why was that sanction broadened?

22 A. Well, it was broadened because Congress legislated a
23 broadening of the sanction. I think the intent of the
24 expansion by Congress was to address what Congress felt was a
25 loophole, for lack of a better word, in the sanctions that

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1 allowed gold to be sold to Iran purportedly to private
2 purchasers but, in fact, on behalf of the government of Iran.

3 Q. Is that a loophole in the sense that indirectly supplying
4 gold to the government of Iran would not violate the sanctions,
5 or a loophole in the sense that it's hard to detect?

6 A. The latter; it's hard to detect.

7 Q. Are you aware of any factual examples that motivated that
8 concern about the existence of a loophole?

9 MR. ROCCO: Objection, your Honor, relevance.

10 THE COURT: I think you're almost done, right?

11 MR. LOCKARD: We're almost done.

12 MR. ROCCO: Goes beyond my cross-examination.

13 THE COURT: Go ahead.

14 A. I don't recall any specific factual examples, sitting here
15 today, and I just don't remember whether there had been some
16 sort of reference at the time.

17 Q. So just a few more questions about your discussions with
18 Mr. Atilla. In those discussions, did Mr. Atilla ever express
19 any lack of knowledge about Halkbank's own sanctions compliance
20 programs?

21 A. No.

22 Q. Did Mr. Atilla ever express a lack of knowledge about
23 Halkbank's clients?

24 A. No.

25 Q. Did Mr. Atilla ever express a lack of knowledge about

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1 Halkbank's clients' clients?

2 A. Not in the sense that it was raised in terms of a
3 compliance concern on his behalf.

4 Q. And Mr. Rocco asked you a few questions about the
5 discussion with Mr. Atilla and his new general manager in
6 October of 2014?

7 A. Yes.

8 Q. And Mr. Atilla's questioning about whether Mr. Zarrab was a
9 specially designated national on the blacklist, for lack of a
10 better word?

11 A. Right.

12 Q. In your prior discussions with Mr. Atilla, was an entity or
13 a person, their being on the SDN List, ever the only factor
14 relevant to a sanctions compliance?

15 A. No.

16 MR. LOCKARD: One moment, your Honor.

17 (Pause)

18 So, your Honor, various summaries and read-outs of the
19 meeting that Mr. Cohen has just talked about have been moved
20 into evidence. We would offer the remaining read-outs,
21 Government's Exhibit 7028 and 7029, which are the
22 September 2012 and February 2013 tables.

23 THE COURT: It's okay with me.

24 MR. ROCCO: I'd like to see them, your Honor.

25 MR. LOCKARD: They're also marked as 3505-005 and

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1 3505-006.

2 MR. ROCCO: Your Honor, I'm going to object based on
3 the basis of the discussion this morning. I'd like you to see
4 the exhibits.

5 THE COURT: Take a look.

6 MR. ROCCO: No, I have them.

7 THE COURT: Oh.

8 MR. ROCCO: I thought your Honor would like to see
9 what they are.

10 THE COURT: Why don't you all come up.

11 (Continued on next page)

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1 (At the side bar)

2 MR. ROCCO: Judge, this is it, if I may.

3 THE COURT: Yes, I saw that on the screen.

4 MR. ROCCO: These are fulsome discussions of the law,
5 and what I tried to do, perhaps unartfully, was elicit
6 statements that Mr. Cohen made to people at Halkbank only
7 because it went to Mr. Atilla's state of mind. These are legal
8 opinions and invade the province of the Court and go precisely
9 to the objection that the government imposed over the weekend
10 to my line of cross-examination.

11 MR. LOCKARD: These are summaries of discussions with
12 Mr. Atilla. These are not legal documents. These are
13 recordings of meetings and, in fact, Mr. Rocco has offered and
14 moved into evidence two e-mail summaries written by somebody
15 else. These are cables that were reviewed and cleared by the
16 witness, Mr. Cohen.

17 THE COURT: I think I'm going to allow it.

18 MR. ROCCO: Your Honor, you've been --

19 THE COURT: He's just trying to tip the balance back,
20 so to speak. So this is what happens, you know.

21 MR. ROCCO: That's why we should let you charge on the
22 law and not go into these issues, but I think it's very
23 confusing, but...

24 THE COURT: Are you going to ask him any questions
25 about it, or just move it into the record?

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1 MR. LOCKARD: That's it.

2 MR. ROCCO: Thank you.

3 THE COURT: I'll note the objection, though. All

4 right.

5 (Continued on next page)

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1 (In open court)

2 THE COURT: I'll allow that.

3 (Government's Exhibits 7028 and 7029 received in
4 evidence)

5 MR. LOCKARD: Your Honor, just very two quick
6 questions to complete the record on these exhibits, and if I
7 may approach?

8 THE COURT: Yes.

9 BY MR. LOCKARD:

10 Q. Okay.

11 A. Yes.

12 Q. So, Mr. Cohen, we had looked at those on Friday, I believe;
13 is that right?

14 A. Yes.

15 Q. And do you recognize what those are?

16 A. I do.

17 Q. And what are they?

18 A. These are State Department cables that are summaries of
19 meetings that I had in Turkey on two different trips.

20 Q. And did you review and approve those summaries before they
21 were published?

22 A. I did.

23 MR. LOCKARD: No further questions, your Honor.

24 THE COURT: Okay. I will allow them, and thank you
25 very much, Mr. Cohen. You're excused.

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Korkmaz - Direct

1 THE WITNESS: Thank you, your Honor.

2 THE COURT: We'll ask for the government's next
3 witness.

4 (Witness excused)

5 THE DEPUTY CLERK: Sir, before you begin, I'd like to
6 remind you that you're still under oath.

7 THE WITNESS: Yes.

8 THE DEPUTY CLERK: Thank you. You may be seated.

9 HUSEYIN KORKMAZ,
10 called as a witness by the Government,
11 having previously been duly sworn, testified as follows:

12 DIRECT EXAMINATION (Resumed)

13 BY MR. LOCKARD:

14 Q. Good afternoon, Mr. Korkmaz.

15 A. You too, as well.

16 Q. So before the lunch break, we had been talking about your
17 investigation in 2012 and 2013?

18 A. Yes.

19 Q. And you'd been describing some of the evidence gathered in
20 your investigation about bribery payments made to various
21 government officials and bank officials?

22 A. Yes.

23 Q. Now, you had also described something that you referred to
24 as "the operation" on December 17th, 2013?

25 A. Yes.

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Korkmaz - Direct

1 Q. Can you describe what you mean by an operation?

2 A. Yes. An operation is a judicial process through which
3 searches are conducted in homes or business places of suspects,
4 and also it pertains to the capture and detention of suspects,
5 and these suspects may be, in part or in whole, part of the
6 investigation.

7 Q. And approximately how many locations were searched as part
8 of the operation?

9 A. I can't remember the exact total count of the searches that
10 were conducted that day, but if you'll allow me, I can count
11 them one by one as to my recollection of all the searches that
12 were conducted.

13 Q. If you can give us an approximate number, if not an exact
14 number?

15 A. I recall that to be approximately 20.

16 Q. And were there individuals who were questioned as part of
17 the operation?

18 A. Yes.

19 Q. And did the searches and the individuals questioned, did
20 any of those people have family or professional relationships
21 with some of the ministers that you had described earlier?

22 MR. HARRISON: Objection, relevancy.

23 THE COURT: Overruled.

24 A. Yes.

25 Q. So the operation was on December 17th, 2013?

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Korkmaz - Direct

1 A. That is correct.

2 Q. Did there come a time when your duties were reassigned?

3 A. Yes.

4 Q. When was that?

5 A. It was in the evening of December 22nd, 2013, that's when I
6 learned that I was reassigned.

7 Q. Approximately five days after the operation?

8 A. Yes.

9 Q. Were there any other personnel changes in the financial
10 crimes unit between December 17th and December 23rd?

11 A. Yes.

12 Q. What was the first such personnel change?

13 A. It was the unit chief and the deputy provincial chief of
14 police that was over the unit, and they had been changed.

15 Q. And when did that happen?

16 A. It was the day after the operation, on December 18th.

17 THE COURT: What do you mean changed?

18 THE WITNESS: The unit chief that had been assigned or
19 worked with the operation, your Honor, was reassigned somewhere
20 else, and in his place, someone else had been placed.

21 THE COURT: And the same -- what about the deputy
22 chief?

23 THE WITNESS: The deputy provincial police chief was
24 also reassigned somewhere else, and somebody else was brought
25 in his place.

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Korkmaz - Direct

1 BY MR. LOCKARD:

2 Q. And in the organizational hierarchy, where is the deputy
3 provincial chief position?

4 A. He would be just below the provincial chief of police.

5 Q. Were there any other supervisory reassignments in the
6 financial crimes unit between December 17th and December 23rd?

7 A. Yes.

8 Q. What were those?

9 A. The two unit chiefs of other units were also reassigned. I
10 believe they had learned about their assignments on the evening
11 of the 18th of December, and they said their farewells on the
12 morning of the 19th of December.

13 Q. Did you receive any instructions from the supervisors
14 appointed to replace those individuals?

15 A. Yes.

16 Q. And what instructions did you receive with respect to the
17 investigation?

18 MR. HARRISON: Objection, relevance, hearsay.

19 THE COURT: Overruled.

20 A. First of all, they asked for detailed information about the
21 investigation, and I continually provided this information to
22 them, particularly my unit chief was informing them also. But
23 among the new leaders that had come in, such as the assistant
24 director over the unit, as well as the unit chief and other
25 ranked officer were giving inappropriate and unlawful

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Korkmaz - Direct

1 instructions --

2 THE INTERPRETER: I'm sorry, I'm going to have to
3 correct what I just said. I'm going to start over.

4 Within the new personnel that were assigned,
5 particularly the assistant director over the unit, they were
6 giving inappropriate and illegal or unlawful instructions to
7 the unit chief and to another ranked officer, as well as
8 myself.

9 MR. HARRISON: I'm going to object and move to strike
10 based on relevance, hearsay and legal opinion.

11 THE COURT: So you're going to explore that, right,
12 counsel?

13 MR. HARRISON: Thank you, your Honor.

14 THE COURT: I mean Mr. Lockard.

15 MR. LOCKARD: Yes, your Honor.

16 BY MR. LOCKARD:

17 Q. Mr. Korkmaz, can you tell us specifically what instructions
18 you received with respect to the investigation?

19 A. Certainly. For example, the interview questions that would
20 be utilized during the interview of Baris Guler and the
21 template of such questions were requested by the deputy
22 provincial police chief, Selami Yildiz. And Selami Yildiz
23 provided instructions to not ask questions to Baris Guler with
24 regard to any allegations of bribery.

25 Q. Did you receive any other instructions from the new

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1 supervisors?

2 A. Yes. The same person, Selami Yildiz also instructed that
3 evidence be removed from the questions regarding the delivery
4 that was made by Reza Zarrab to Egemen Bagis on 19 of
5 April 2013.

6 THE COURT: I'm not sure I understood that.

7 THE INTERPRETER: Again, by the same person Selami
8 Yildiz, an instruction was given to remove evidence from the
9 questioning with regards to the delivery that was made by Reza
10 Zarrab to Egemen Bagis on April 19th, 2013.

11 BY MR. LOCKARD:

12 Q. The delivery of money that you had testified about this
13 morning?

14 A. Yes.

15 THE COURT: What does it mean to remove evidence of
16 the questioning?

17 THE WITNESS: They were saying that -- the instruction
18 included that these questions should not be asked, remove this
19 evidence from the questioning and do not ask these questions.

20 Q. Mr. Korkmaz, did you prepare anything between
21 December 17th, the operation date, and December 23rd?

22 A. Yes.

23 Q. What did you prepare?

24 A. First, I prepared the report that was a tip being sent to
25 the parliament, and second, I had prepared the case summary for

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Korkmaz - Direct

1 the Police Departments, to be given to the prosecutor on
2 December 20th.

3 Q. And can you explain what you mean by a tip for the
4 parliament?

5 A. Yes. We did not have authority to investigate the three
6 ministers that had been named within this investigation and,
7 also, about the prime minister, and the prosecutor over the
8 investigation had requested that a report be prepared in terms
9 of a tip to be provided to the parliament with regard to these
10 three ministers and the prime minister.

11 Q. And just to clarify, is that an informal or a formal
12 document?

13 A. It's an official document.

14 Q. And you also described a second report that you prepared?

15 A. Yes.

16 Q. And what was the purpose of preparing that report?

17 A. It's a police report that is sent to the prosecutor's
18 office that explains the investigation that led up to the
19 operation.

20 MR. LOCKARD: May I approach, your Honor?

21 THE COURT: Yes.

22 Q. I show you what's been marked for identification as
23 Government's Exhibit 101. All right. Mr. Korkmaz, do you
24 recognize that?

25 A. Yes.

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Korkmaz - Direct

1 Q. And what is it?

2 MR. HARRISON: Objection, your Honor.

3 THE COURT: Overruled.

4 A. This is the case summary that includes the operational
5 summary that we had sent to the prosecutor on December 20th,
6 2013.

7 Q. And did you receive any instructions from your new
8 supervisors concerning that report?

9 MR. HARRISON: Objection, relevance, hearsay, your
10 Honor.

11 THE COURT: Overruled.

12 A. Yes.

13 Q. And what were those instructions?

14 A. I was instructed to not deliver this report to the
15 prosecutor's office, while I was on my way to the prosecutor's
16 office to deliver this report, and that is despite the fact
17 that this was a signed report with the cover page also signed
18 for it to be delivered.

19 Q. And did you follow that instruction?

20 A. No.

21 Q. And what date did that happen?

22 A. It's December 20th, 2013.

23 THE COURT: And what does it mean that you did not
24 follow the instruction? Did you deliver the report anyway?

25 THE WITNESS: That is correct, your Honor. I

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1 delivered it to the prosecutor.

2 THE COURT: Personally, or to the office, or what?

3 THE WITNESS: I presented it or delivered it in person
4 over there but, of course, it was his clerk that received it
5 from me.

6 BY MR. LOCKARD:

7 Q. And when you were reassigned after December 23rd, what was
8 your next assignment?

9 A. I was sent to the bridge protection unit directorate.

10 Q. And what were your duties and responsibilities at the
11 bridge protectorate unit?

12 A. It was to protect the bridge. I'm not sure how to expand
13 that any further than that. It might include -- so the
14 pedestrians did not go on the bridge. So there are police
15 checkpoints, and if a pedestrian were to approach the bridge to
16 cross it at those checkpoints, they would be stopped.

17 THE COURT: Excuse me. And what about the report to
18 the parliament, did you do that, too? Did you prepare one?

19 THE WITNESS: Yes, your Honor, I prepared it.

20 THE COURT: And what did you do with that?

21 THE WITNESS: Your Honor, the morning of
22 December 18th, we did send that to the prosecutor's office.

23 THE COURT: No, I asked about the parliament.

24 THE WITNESS: That is correct, your Honor. This
25 report that was prepared for the parliament was dated the 18th

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1 of December, and it was delivered to the prosecutor's office on
2 that date, and later it was delivered to the chief prosecutor's
3 office for it to then be delivered to the parliament.

4 THE COURT: Okay.

5 BY MR. LOCKARD:

6 Q. So, Mr. Korkmaz, for how long were you assigned to the
7 bridge protection unit?

8 A. Six to seven months.

9 Q. And did there come a time when you were again reassigned?

10 A. Yes.

11 Q. And when did that reassignment happen?

12 A. I recall that to be in July of 2014.

13 Q. And what was your next assignment?

14 A. I was assigned to the Cukurca district of the province of
15 Hakkari.

16 Q. And, Mr. Chang-Frieden, if you could show Mr. Korkmaz
17 Government Exhibit 52.

18 Mr. Korkmaz, does that show where Hakkari is?

19 A. Yes, that's correct.

20 MR. LOCKARD: The government offers Exhibit 52.

21 THE COURT: I'll allow it.

22 MR. HARRISON: No objection, your Honor.

23 MR. LOCKARD: I ask that it be published?

24 THE COURT: Yes, I'm going to allow it, and you can
25 publish it to the jury.

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1 (Government's Exhibit 52 received in evidence)

2 THE COURT: Is that the circled piece in the lower
3 right?

4 THE WITNESS: Yes.

5 MR. LOCKARD: And, Mr. Chang-Frieden, if you could
6 also draw a circle around Istanbul.

7 BY MR. LOCKARD:

8 Q. So, Mr. Korkmaz, you were reassigned to Hakkari, I believe
9 you said, in July of 2014?

10 A. That is correct. I went to Hakkari as of July 2014.

11 Q. And I'd like to direct your attention to early September of
12 2014?

13 A. Yes.

14 Q. Where were you in early December of 2014?

15 A. I was in prison.

16 Q. Did I say December or September?

17 THE INTERPRETER: You said September first and then
18 December next.

19 Q. So in September of 2014, you were in prison?

20 A. Yes.

21 Q. And when were you arrested?

22 A. I was detained on September 1st, 2014, and I was arrested
23 on September 4th, 2014.

24 Q. And where were you when you were detained?

25 A. I was in Istanbul at that time.

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Korkmaz - Direct

1 Q. And if you were assigned to the Hakkari province, why were
2 you in Istanbul on September 1st, 2014?

3 A. I was unable to move my family over to Hakkari, and an
4 operation had been carried out against members of other police
5 units in Istanbul on July 22nd, and we were expecting an
6 operation to be carried out against the former members of the
7 financial crimes units around that time also.

8 MR. HARRISON: Objection, move to strike, Judge, based
9 on relevance and hearsay.

10 THE COURT: Overruled.

11 A. I wanted to spend time with my family, that's why.

12 Q. Did there come a time when you were bailed?

13 A. Yes.

14 Q. And when was that?

15 A. Excuse me. So when you mean bail, you mean conditional
16 release?

17 Q. I mean, did there come a time when you were released from
18 the custody of the prison?

19 A. Yes, I was released.

20 Q. And when was that?

21 A. It was February of 2016. It was February 9th.

22 Q. And what were the conditions of your release?

23 A. I was banned from international travel.

24 Q. Were you allowed to keep your passport?

25 A. No. It was requested from me; so I had surrendered it.

HCBPATI5

Korkmaz - Direct

1 Q. Did there come a time when you left Turkey?

2 A. Yes.

3 Q. When was that?

4 A. It was in the August of 2016.

5 Q. And why did you leave Turkey in August of 2016?

6 A. I did not feel legally secure in any way for myself.

7 During that time, the prosecutor had requested an order for

8 arrest for myself based on a different investigation. I

9 understood this time to be a time where rights to defend one's

10 own and freedoms of an individual and freedoms as a human were

11 taken away. So I took my wife and my daughter, and I left the

12 country that I dearly love.

13 Q. Now, Mr. Korkmaz, before your arrest in September of 2014,

14 had you expected to be arrested?

15 A. Yes.

16 Q. At that time, did you have your passport?

17 A. Yes.

18 Q. At that time, did you leave the country?

19 A. No.

20 MR. LOCKARD: Your Honor, I don't know if you intend
21 to take an afternoon break, but this might be a good place to
22 do it.

23 THE COURT: Okay. Take five minutes.

24 (Jury not present)

25 THE COURT: Okay. We're going to take a five-minute

HCBPATI5

Korkmaz - Direct

1 break.

2 (Recess)

3 (Jury present)

4 THE COURT: Please be seated, everybody.

5 THE DEPUTY CLERK: Sir, again, I'd like to remind you
6 that you're still under oath.

7 THE WITNESS: Yes.

8 MR. LOCKARD: Should I continue, your Honor?

9 THE COURT: Yes.

10 BY MR. LOCKARD:

11 Q. So, Mr. Korkmaz, you were describing your decision in
12 August of 2016 to leave Turkey?

13 A. Yes.

14 Q. What, if anything, did you bring with you when you left
15 Turkey?

16 A. I brought the evidence that I could obtain with regards to
17 the December 17th investigation, and I brought those.

18 Q. And how were you able to obtain that information, that
19 evidence?

20 A. Some of them from the prosecutor of the investigation and
21 the other part from an expert employee who was working in the
22 investigation.

23 Q. Could you describe generally what it is, what types of
24 evidence it is that you obtained from the prosecutor who had
25 been assigned to the investigation?

HCBPATI5

Korkmaz - Direct

1 MR. HARRISON: Objection, your Honor, relevance,
2 hearsay.

3 THE COURT: Overruled.

4 A. Yes. Audio that constituted criminal elements and the
5 scanned version of the investigative file that was available at
6 the courthouse, photographs of the evidence that were seized
7 during the operation, digital and scanned versions of some of
8 the expert's reports, and some digital versions of evidence
9 such as statements and such.

10 Q. Were you able to make a copy of the entire investigative
11 file?

12 A. No. I was able to get only what had been scanned as of
13 that time, and I had thought that I had picked up all the
14 audio, but turns out I was able to get only the first CD.

15 Q. And did the scanned investigative file also include
16 transcripts of the audio intercepts?

17 A. Yes. Yes, but I noticed that some of the suspects'
18 transcripts had not been scanned at that time and, also, there
19 was one more suspect in the investigation whose transcripts had
20 not been scanned that I realized later.

21 Q. So if there are portions of the investigative file that had
22 not been scanned, you were not able to get a copy of that
23 portion of the file?

24 A. That is correct, exactly.

25 Q. And you were able to obtain a copy of one CD of audio

HCBPATI5

Korkmaz - Direct

1 intercepts; is that right?

2 A. That is correct.

3 Q. And how many other disks were there?

4 A. There were two CDs. I thought that I picked up both of
5 them. I understand that I had not picked up the second one.

6 Q. You also described obtaining some evidence from an
7 individual who worked at the digital evidence lab; is that
8 right?

9 A. Yes.

10 Q. And when did you obtain that digital evidence?

11 A. After I was released from jail.

12 Q. And were you able to compare that digital evidence to the
13 other investigative records that you had obtained from the
14 prosecutor?

15 MR. HARRISON: Objection, Judge, lack of foundation,
16 403.

17 THE COURT: Overruled.

18 A. Yes.

19 Q. And what did that comparison show?

20 A. I understood that they matched.

21 Q. And generally speaking, what was contained in the digital
22 evidence that you obtained from the digital evidence lab
23 person?

24 A. These were the reports that forensic experts had prepared
25 on the digital evidence, and also what they prepared as exports

HCBPATI5

Korkmaz - Direct

1 after these reports.

2 Q. And what do you mean by exports?

3 A. Export is a process through which the computer files that
4 are obtained through the image are sorted by their file
5 extensions.

6 Q. Mr. Korkmaz, why did you obtain copies of the investigative
7 file and other evidence from the prosecutor?

8 A. Both the prosecutor and I believed that the evidence would
9 never be brought up in court, and that they would be damaged or
10 destroyed; so I took initiative in order to preserve the
11 evidence.

12 MR. HARRISON: Judge, I'm just going to object and
13 move to strike based on relevance, hearsay and opinion
14 testimony.

15 THE COURT: You got it. And foundation, probably,
16 right?

17 MR. HARRISON: Yes, your Honor.

18 THE COURT: Okay. Overruled.

19 BY MR. LOCKARD:

20 Q. So, Mr. Korkmaz, when you left Turkey without a passport,
21 can you describe for us generally how you were able to
22 accomplish that?

23 THE COURT: Counsel, we do have a prior discussion of
24 this, right? And ruling on this issue?

25 MR. LOCKARD: We do, and so --

HCBPATI5

Korkmaz - Direct

1 THE COURT: Okay.

2 BY MR. LOCKARD:

3 Q. So generally, Mr. Korkmaz, could you describe for us the
4 method by which you were able to leave the country?

5 A. Yes.

6 Q. And what is that method?

7 A. I found a smuggler, and I asked him to smuggle me out, and
8 I fled through a border crossing.

9 Q. Now, did there come a time when you were able to obtain
10 another passport?

11 A. Yes.

12 Q. And how was it that you were able to obtain another
13 passport?

14 A. It was not possible in the first country that I had
15 entered, and then I went on to another country, and then I went
16 on to another country. And the reason why I actually went to
17 that third country was because there was a loophole, legally,
18 that would give me this opportunity.

19 Q. And so did there come a time when you actually did obtain a
20 passport in that country?

21 A. Yes.

22 Q. Was that passport in your true name?

23 A. No.

24 Q. So if you obtained a passport in a name other than your
25 actual name, what do you mean by legally obtaining a passport?

HCBPATI5

Korkmaz - Direct

1 A. Not necessarily legal, but through a legal or through a
2 loophole in the legal system.

3 Q. Was it actually issued by the government authority?

4 A. Yes.

5 Q. Now, did there come a time when you began communicating
6 with United States law enforcement?

7 A. Yes.

8 Q. And what did you come to understand from those
9 communications?

10 A. I understood that I cannot come to the United States
11 without a passport.

12 Q. Now, what, if any, concerns did you have about not having a
13 passport, other than ability to travel to the United States?

14 MR. HARRISON: Objection.

15 A. I was afraid of extradition. Turkey had -- the Turkish
16 government had good relations with these countries, and the
17 extradition was a possibility. At higher levels, it could have
18 happened.

19 Q. Now, you testified earlier about the concerns that you had
20 that had motivated you to leave Turkey in August of 2016?

21 A. Yes.

22 Q. Concerns for your, I think, freedom and safety?

23 A. Yes.

24 Q. How, if at all, did the steps that you took after leaving
25 Turkey, including bringing the evidence with you, how would

HCBPATI5

Korkmaz - Direct

1 that affect the risks that you thought you would face if you
2 were returned to Turkey?

3 MR. HARRISON: Objection, relevance and 403, your
4 Honor.

5 THE COURT: Overruled.

6 THE INTERPRETER: Could you please repeat that
7 question.

8 Q. How, if at all, did the risks that you perceived from
9 returning to Turkey change as a result of the additional steps
10 you took by leaving Turkey and by bringing the evidence with
11 you?

12 A. During that time, in the public arena, in the press, there
13 were news published about individuals in custody who were being
14 tortured. I was aware of the bad treatments that I would be
15 subject to, and I could call that torture, actually. The high
16 risks that I would face if I were to be extradited, even
17 through official channels, if I were to be extradited, I knew
18 what I would face. But what made me really uneasy in these
19 countries was anything that could be done against me through
20 unofficial means, and for that reason, I was not going out of
21 the house much in these countries.

22 Q. Did there come a time when you traveled to the United
23 States?

24 A. Yes.

25 Q. Was that with the assistance of U.S. law enforcement?

HCBPATI5

Korkmaz - Direct

1 A. Yes.

2 Q. And what, if anything, did you bring with you?

3 A. I brought the evidence that I had mentioned.

4 Q. And what did you do with it when you arrived?

5 A. I delivered them at the airport.

6 Q. All right. So let's talk a little bit about what that
7 evidence is. Can you remind us again what some of the
8 investigative techniques were that were employed in your
9 investigation?

10 A. Yes, identification of communications and surveillance of
11 such communications, surveillance through technical tools,
12 physical surveillance, security camera footage, and analysis of
13 mails and obtaining of documents from entities, and also, the
14 evidence and documents and additional evidence that were
15 collected during the operation.

16 Q. So let's start with the evidence that was obtained through
17 the searches.

18 A. Yes.

19 Q. And I think we've touched on that just a little bit
20 already. When did the searches take place?

21 A. On December 17th, 2013.

22 Q. And who was principally responsible for organizing the
23 searches?

24 A. As the team lead, it was me.

25 Q. And who was principally responsible for choosing the search

HCBPATI5

Korkmaz - Direct

1 teams?

2 A. As an organizer, I was the one responsible in listing them.

3 Q. And how many, approximately, search teams were there?

4 A. I recall that we had sent at least two and -- between two
5 and five teams to each of the addresses involved.

6 Q. And who chose the team leaders of each of those teams?

7 A. I had selected them, but I made the selection based on the
8 lists that were brought to me from my unit and from other
9 units.

10 Q. So let's talk about a typical search.

11 A. Yes.

12 Q. In fact, before we talk about these searches, approximately
13 how many operations have you participated in as a Turkish -- as
14 an officer with the financial crimes unit?

15 A. Are you referring to the ones that I have conducted, or
16 ones that I may have joined doing their searches for
17 investigations that were conducted by other units?

18 Q. Let's do both. How many operations did you personally plan
19 and organize?

20 A. Prior to December 17th, during a three to three-and-a-half
21 year period, I led ten to 15 such operations, simultaneous
22 operations, that I took part in as a team lead.

23 And as far as other operations that were conducted by
24 our unit or other units, the number of that is very high, and I
25 cannot remember exactly how many.

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Korkmaz - Direct

1 THE COURT: Approximately?

2 THE WITNESS: Your Honor, I would guess it would be
3 between 25 and 50.

4 Q. And so what information or instructions would you give to
5 the search team leaders prior to the operation being carried
6 out?

7 A. First of all, I selected individuals that would be leading
8 the teams going to important addresses, and I had selected them
9 to be from our unit. I told them about the identification of
10 any evidence that may be found at any of the addresses. I told
11 them to have at least two witnesses at each address during any
12 search. And I also went over the search warrant, and I
13 explained to them the things that were mentioned in there as to
14 the items that should be seized, and I gave them information
15 about what these particulars were about every address.

16 Q. And where would you be during the operation itself, when
17 the teams went out to conduct the searches?

18 A. I'd be at the unit.

19 Q. And what would be your duties and responsibilities
20 throughout the day as the operation was being carried out?

21 A. Since I'm the coordinator, all the information about the
22 operation would flow to me, and I would inform both the
23 prosecutor, as well as my own supervisor about the information
24 that was coming in.

25 Q. And how would you learn that information throughout the

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Korkmaz - Direct

1 day?

2 A. Sometimes they'd call on the phone, the teams would, and
3 sometimes they would write through WhatsApp, and sometimes they
4 would call through KakaoTalk.

5 Q. And can you just explain what that is, for the benefit of
6 those of us who don't use that app?

7 A. You mean the KakaoTalk one?

8 Q. Yes, sir.

9 A. KakaoTalk is another communications application just like
10 WhatsApp is, and it's available through Google Play. What I
11 recall is WhatsApp did not allow voice calls at that time, and
12 for this application what I recall is it had good audio
13 transmission. It was a fast application, and it worked.

14 Q. And what procedure was there for teams to collect and
15 maintain evidence?

16 A. So, first of all, we make sure that there are at least two
17 witnesses during any search, as a search begins, and all the
18 evidence identified during a search would then be listed in a
19 meaningful way on the search report. And then these witnesses
20 would sign under this report, and they would put their
21 signatures on it and show that they were there.

22 Q. And what is the -- at the end of the search, where is the
23 evidence taken?

24 A. They would be taken to the room where the team is located
25 that is conducting the operation. In this case, they were

HCBPATI5

Korkmaz - Direct

1 brought to the room where our team is, in our office.

2 Q. And what is the procedure for receiving evidence when it's
3 brought back to the team room?

4 A. I would task an officer, as I would do with any operation,
5 in this operation too, I would task an officer. These would be
6 the officers to greet the incoming teams, and the teams
7 returning from the searches would come in with their evidence
8 bags and their reports, and this officer would greet them,
9 would compare each and every piece of evidence with the reports
10 that it's listed on, and another officer would receive the
11 suspects brought in.

12 Q. And did that process happen on the December 17th operation?

13 A. Yes.

14 Q. And where were you when the search teams came back to the
15 office with their evidence?

16 A. I was at the unit. I was sometimes in that room, and
17 sometimes I was with my supervisors in other rooms, and then
18 there was also another office where I could use to type up the
19 case summary report. So in order to do that, I was in that
20 room sometimes.

21 (Continued on next page)

HCB3ATI6

Korkmaz - Direct

1 Q. How, if at all, would evidence from each search location be
2 kept separate from evidence from other search locations?

3 A. Every suspect, whether it's the suspect's home or business
4 place, would have an evidence bag, and on this bag there would
5 be a label placed. And some teams may be more sensitive on
6 this and may place a label on every single piece of evidence as
7 well.

8 Q. When, if at all, would you begin to review the evidence
9 brought back from the searches?

10 A. Primarily I would inform the prosecutor, and after that,
11 that could happen on the first day, but it could also happen
12 gradually, because it is not possible to review all of them at
13 once. So the review that takes place during the operation is
14 the one where it's just a quick browse of the evidence so that
15 anything that should be included in the case summary report
16 that is being prepared, they could be included in that report.

17 Q. Did you in fact include some of the evidence brought back
18 on December 17 as part of your report?

19 A. Yes, I included some, those pieces of evidence that I found
20 to be important, or of or immediate use, I took pictures of
21 such evidence, and I included in my report.

22 I apologize. I apologize. I'd like to make a
23 correction. I'm under oath here. I want to be precise in what
24 I say.

25 I was not the one taking the pictures of the pieces of

HCB3ATI6

Korkmaz - Direct

1 evidence. I had tasked an officer to do so. He would take the
2 pictures, he would give them to me, and I would include those
3 pictures in the report.

4 Q. Where was your office located physically compared to the
5 room where the evidence was held?

6 A. So, my current office at that time was actually in the same
7 room. And then as for the room that I was using to type up the
8 case summary report, that was at a room that I rarely used
9 during the operation. And I don't know how to give you a
10 measure on that, but it was on the same aisle, same corridor,
11 and it was maybe a little more of a distance of the distance
12 between that corner and this corner.

13 MR. LOCKARD: I don't know how to estimate that, your
14 Honor, but I would guess maybe 20 yards. 10 yards.

15 THE COURT: That is probably a fair estimate. I think
16 we get the picture though.

17 So, I think we're going to stop for today. I take it
18 you have some more questions to ask of Mr. Korkmaz?

19 MR. LOCKARD: Yes, your Honor.

20 THE COURT: I just have one question that I wanted to
21 ask. Perhaps we asked it before. How old are you?

22 THE WITNESS: 30, your Honor.

23 THE COURT: So we'll pick up tomorrow. The witness is
24 excused for today.

25 (Witness not present)

HCB3ATI6

1 THE COURT: Remember, please don't talk to each other
2 about this case, or about anyone who has anything to do with it
3 until the end of the case when you go to the jury room to
4 deliberate on your verdict.

5 Second, do not talk with anyone else about this case
6 or anyone who has anything to do with it until the trial has
7 ended, and you have been discharged as jurors.

8 Third, do not let anyone talk to you about the case,
9 or about anyone who has anything to do with it. And if someone
10 should try and talk to you about the case, please report that
11 to Christine or me immediately.

12 Fourth, do not read any news or internet stories or
13 articles or blogs, etc., or listen to any radio or TV or cable
14 TV or internet reports about the case or about anyone who has
15 anything to do with the case.

16 And fifth, do not do any type of research or any type
17 of investigation about the case on your own.

18 So, another productive day and I'll see you at 9:15
19 tomorrow morning. Thanks a lot.

20 (Jury excused)

21 THE COURT: Mr. Lockard, remind me again what is left
22 in terms of the government's case, number of witnesses, etc.

23 MR. LOCKARD: I think we have about five witnesses
24 left. That does not include potential custodial witnesses
25 which we are still hoping to avoid calling, but may not be able

HCB3ATI6

1 to avoid calling.

2 And I think the batting order is, as we had discussed,
3 Mr. Szubin who had scheduling issues last week will start
4 tomorrow morning. We are also working to solve another
5 scheduling problem, and we may be calling a second witness out
6 of turn after Mr. Szubin who would be a compliance expert from
7 Deutsche Bank. At that point we would then resume with
8 Mr. Korkmaz and we would expect to finish his direct
9 continuously from there. And then after that, I think we would
10 have, again, not counting potential custodial witnesses, about
11 two additional witnesses and then a summary witness.

12 THE COURT: So, Mr. Szubin you estimate to be what
13 kind of length to his testimony?

14 MR. LOCKARD: We expect his direct to be somewhere
15 around an hour and a half and two hours.

16 THE COURT: And the other witnesses would be longer or
17 shorter?

18 MR. LOCKARD: I think the rest would be in that range
19 or maybe a little shorter.

20 THE COURT: How much do you think you have left with
21 Mr. Korkmaz?

22 MR. LOCKARD: I think we're likely to finish direct
23 with Mr. Korkmaz on Wednesday.

24 THE COURT: Oh really? You'd have you think all of
25 tomorrow? Well, no, I guess we have the other witnesses.

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1 MR. LOCKARD: Because tomorrow is less than a half day
2 for him probably.

3 THE COURT: All right.

4 MS. FLEMING: I'd like to raise an issue with regard
5 to the summary witness which is somebody named Hinton. We were
6 advised of him I believe for the first time last week. Maybe
7 Friday. I don't remember the days, I don't want to get pinned
8 down on it. And we received the 3500 material and the
9 government's exhibits, which are rather thick, and we're
10 putting together -- we're compiling for the Court the number of
11 pages, because they're considerable. And that's on top of the
12 thousands of Turkish pages we have gotten, both in response to
13 a subpoena we served, which is our issue, but also that we
14 received from the government.

15 We are going to object to the summary witness on many
16 grounds, but among others, it really is, this is just trial by
17 ambush yet again. And even in terms of notice, one of the
18 first things that jumped out is he's been working two years --
19 two years -- and on one of the first pages of this, and we get
20 this like last Thursday, or Friday, or Saturday. It's really
21 pretty unbelievable, Judge.

22 THE COURT: So just remind me, what is the function of
23 a summary witness?

24 MR. LOCKARD: So, as your Honor knows, this was a
25 heavily document-intensive investigation with hundreds of

HCB3ATI6

1 thousands of e-mails and an even larger number of bank records
2 as part of the investigation.

3 So the summary witness is our effort to condense and
4 streamline all of that into a short summary presentation as
5 opposed to a whole stack of documents.

6 THE COURT: How does that contrast to your summation?
7 I thought that's what you do.

8 MS. FLEMING: Better organized.

9 THE COURT: Well --

10 MR. LOCKARD: The difference is that I think it's
11 somebody who can, as a fact witness, summarize things and
12 compile things in a way that I think might just sound like
13 argument coming from closing.

14 THE COURT: We'll continue the discussion of the
15 summary issue witness issue.

16 MS. FLEMING: Perhaps you'd like to look at this
17 overnight?

18 THE COURT: Thanks. I have to read one of the
19 transcripts overnight, so I'll pass.

20 We'll see you tomorrow at 9:15.

21 MS. FLEMING: Thank you, your Honor.

22 (Adjourned until December 12, 2017, at 9:15 a.m.)
23
24
25

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GOVERNMENT EXHIBITS

Exhibit No.	Received
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70211255
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1061299
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DEFENDANT EXHIBITS

Exhibit No.	Received
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